

OFFICIAL GAZETTE



GOVERNMENT OF GOA

(SUPPLEMENT)

GOVERNMENT OF GOA

Goa Legislature Secretariat

LA/E-9/2509/2001

The following Bill which was introduced in the Legislative Assembly of the State of Goa on 19-7-2001 is hereby published for general information in pursuance of the provisions of Rule-138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The Goa Prevention of Defacement of Property
(Second Amendment)
Bill, 2001

(Bill No. 65 of 2001)

A
BILL

*further to amend the Goa Prevention of Defacement
of Property Act, 1988.*

BE it enacted by the Legislative Assembly of Goa in the Fifty-second Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Goa Prevention of Defacement of Property (Second Amendment) Act, 2001.

(2) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

2. *Amendment of section 3.*— In sub-section (1) of section 3 of the Goa Prevention of Defacement of Property Act, 1988 (Goa Act No.5 of 1990),—

(i) for the words "one thousand rupees", the words "five thousand rupees" shall be substituted;

(ii) for the existing proviso, the following shall be substituted, namely:—

"Provided that in the interest of tourism and economic activities of the State of Goa, the Collector or any other authority authorized by the Government in this behalf, may, allow displaying of any board or hoarding at any public place and, for activities necessitating digging of a public road, allow such digging, on such terms and conditions and at such rates as may be notified by the Government by notification from time to time."

Statement of Objects and Reasons

It has been noticed that the public roads in urban as well as rural areas are being defaced by digging by various authorities on various pretexts and thereafter kept unattended. In heavily populated areas, such unattended, damaged roads cause traffic hazards and danger to human life and property. It has been revealed that the authorities who damage the roads, specially in municipal areas, are very negligent in repairing the damaged roads.

It is, therefore, proposed to suitably amend sub-section (1) of section 3 of the Act, 1988, so as to increase the fine from existing one thousand rupees to five thousand rupees and also substitute

existing proviso to said sub-section (1) of section 3, by new proviso so as to empower the Collector or any other authority authorized by the Government in this behalf to allow digging of a public road on such terms and conditions and at such rates as may be notified by the Government from time to time.

This Bill seeks to achieve the above objects.

Financial Memorandum

No financial implications are involved in this Bill.

Memorandum Regarding Delegated Legislation

The proposed amendment to proviso to sub-section (1) of section 3 of the Goa Prevention of Defacement of Property Act, 1988, empowers the Government to notify the terms and conditions and also rates governing the activities of digging of public road. The said amendment also empowers the Collector or any other authority authorized by the Government in this behalf to allow such digging on said terms and conditions and at said rates.

These delegations are of normal character.

Panaji Goa
18th July, 2001.

DIGAMBAR KAMAT,
Minister for Urban Development

Assembly Hall,
Porvorim, Goa
18th July, 2001.

R. KOTHANDARAMAN,
Secretary to the Legislative
Assembly of Goa.

ANNEXURE

The Goa Prevention of Defacement of Property (Second Amendment) Bill, 2001

The Goa Prevention of Defacement of Property
Act, 1988

(Goa Act No. 5 of 1990)

Section 3— Penalty for defacement of property.— (1) Whoever defaces any property in public view by defacing or spitting or urinating or pasting pamphlets, posters or writing or marking with ink, chalk, paint or any other material or method except for the purpose of indicating the name and address of the owner or occupier of such property, shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both:

Provided that in the interest of tourism and economic activities of the State of Goa, the Collector may allow displaying of any board or hoarding at any public place on such terms and conditions and at such rates as may be notified by the Government by notification from time to time.

(2) Where any offence committed under sub-section (1) is for the benefit of some other persons or a company or other body corporate or an association of persons (whether incorporated or not) then, such other persons and every president, chairman, director, partner, manager, secretary, agent or any other officer or persons concerned with the management thereof, as the case may be, shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.

Assembly Hall,
Porvorim, Goa
18th July, 2001.

R. KOTHANDARAMAN,
Secretary to the Legislative
Assembly of Goa.

LA/E-9/2509/2001

The following Bill which was introduced in the Legislative Assembly of the State of Goa on 19-7-2001 is hereby published for general information in pursuance of the provisions of Rule-138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The Goa State Guarantees (Second Amendment) Bill, 2001

(Bill No. 64 of 2001)

A

BILL

*further to amend the Goa State Guarantees Act,
1993 (Goa Act 16 of 1993).*

BE it enacted by the Legislative Assembly of Goa in the Fifty-Second Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Goa State Guarantees (Second Amendment) Act, 2001.

(2) It shall come into force at once.

2. *Amendment of section 3.*— In section 3 of the Goa State Guarantees Act, 1993 (Goa Act 16 of 1993), in sub-section (1) for the expression "Rs. 350.00 crores", the expression "Rs. 550.00 crores" shall be substituted.

Statement of Objects and Reasons

In terms of sub-section (1) of section 3 of the Goa State Guarantees Act, 1993 (Goa Act 16 of 1993), the limit upto which the executive powers of the State Government shall extend to the giving of guarantees as provided in clause (1) of Article 293 of the Constitution of India, shall be the sum of Rs. 350.00 crores only. Recently, the Government has set up the Goa State Infrastructure Development Corporation to undertake various infrastructure related projects in the State. Some of the projects would be taken through private participation and would be self financing. However, some other projects have to be executed by taking loans from financial institutions. In order to take such loan, it will be necessary to have Government guarantee for these loans. Besides this, there is a heavy demand from the Government Corporations and other organisations for Government guarantee for availing loan/cash-credit facilities from financial institutions.

It is therefore, proposed to increase the limit of giving of guarantees from the sum of Rs. 350.00 crores to Rs. 550.00 crores, by suitably amending said sub-section (1) of section 3 of the said Act, 1993.

This bill seeks to achieve the above objects.

Financial Memorandum

Financial implications of the proposed Bill will arise only when Government Guarantees are invoked against the State Government and the liability charged to the Consolidated Fund of the State.

The amount involved in such cases cannot be foreseen at this stage.

Momorandum Regarding Delegated Legislation

No delegated legislation is envisaged in this Bill.

Porvorim-Goa,
16th July, 2001.

MANOHAR PARRIKAR,
Chief Minister

Assembly Hall,
Porvorim-Goa.
16th July, 2001.

R. KOTHANDARAMAN,
Secretary (Legislature)

Governor's Recommendation under Article 207
of the Constitution.

In pursuance of the Article 207 of the Constitution of India, I, Mohd. Fazal, the Governor of Goa, hereby recommend to the Legislative Assembly of Goa, the introduction and consideration of the Goa State Guarantees (Second Amendment) Bill, 2001, by the Legislative Assembly of Goa.

ANNEXURE

**The Goa State Guarantees Act, 1993
(Act No. 16 of 1993)**

Fixation of limit upto which State may give guarantees.— (1) The limit upto which the executive power of the State Government shall extend to the giving of guarantees including guarantees given before the commencement of this Act as provided in clause (1) of Article 293 of the Constitution of India, shall be the sum of Rs. 350 crores.

(2) The State Government shall lay before the State Legislature.—

(a) a statement of any guarantee given not later than six months from the close of each financial year.

(b) within six months after the close of any financial year.

LA/E-9/2509/2001

The following Bill which was introduced in the Legislative Assembly of the State of Goa on 18-7-2001 is hereby published for general information in pursuance of the provisions of Rule-138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

**The Maharashtra Agricultural Produce Marketing
(Regulation) (Goa Amendment) Bill, 2001**

(Bill No. 56 of 2001)

A

BILL

further to amend the Maharashtra Agricultural Produce Marketing (Regulation) Act, 1963 (Maharashtra Act No. XX of 1964), as in force in the State of Goa.

BE it enacted by the Legislative Assembly of Goa in the Fifty second Year of the Republic of India as follows:—

1. *Short title and commencement*:— (1) This Act may be called the Maharashtra Agricultural Produce Marketing (Regulation) (Goa Amendment) Act, 2001.

(2) It shall be deemed to have come into force with effect from 24th May, 2001.

2. *Amendment of section 2*.— In the Maharashtra Agricultural Produce Marketing (Regulation) Act, 1963 (Maharashtra Act XX of 1964), as in force in the State of Goa (hereinafter referred to as the "principal Act"), in sub-section (1) of section 2,—

(a) for clause (b), the following shall be substituted, namely:—

"(b) "agriculturist" means a person who,—

(i) ordinarily by his own labour or by the labour of any member of his family or who, by the labour of his tenants or servants or hired labour or otherwise, is engaged in the production or growth of agricultural produce; and

(ii) is a member of a co-operative society registered in the State of Goa which is dealing with agricultural produce, as may be notified by the State Marketing Officer from time to time and who has sold agricultural produce to the co-operative society of the value not less than Rs. 5000/- or such amount as may be determined by the State Marketing Officer from time to time in the preceding financial year; and

(iii) is not a trader, trading agent, broker, processor or commission agent; "

(b) for clause (j), the following shall be substituted, namely:—

"(j) "Marketing Board" means the Marketing Board established under section 11";

3. *Omission of section 10*. — Section 10 of the principal Act shall be omitted.

4. *Amendment of section 11*.— For section 11 of the principal Act, the following shall be substituted, namely:—

"11. *Establishment of the Marketing Board*.— There shall be established a Marketing Board for the State of Goa consisting of a Chairman, a Vice-Chairman and other members. The Marketing Board shall have such powers and discharge all such functions as are vested in it by or under this Act."

5. *Amendment of section 12*.— For section 12 of the principal Act, the following shall be substituted, namely:—

"12. *Incorporation of the Marketing Board*.— The Marketing Board shall be a body corporate by the name of "the Goa State Agricultural Marketing Board", and shall have perpetual succession and a common seal, and may in its corporate name sue and be sued, and shall be competent to contract, acquire and hold property, both movable and immovable, and to do all other things necessary for the purposes for which it is established."

6. *Amendment of section 13*. — For the sub-section (1) of section 13 of the principal Act, the following shall be substituted, namely:—

"(i) subject to the provisions of sub-section (2), the Marketing Board shall consist of the following seventeen members, namely:—

(a) ten agriculturists including two lady agriculturists to be elected by the agriculturists only;

(b) one trader holding 'A' class licence to be elected from amongst traders of all classes;

(c) two trader's co-operative societies registered in the State of Goa and which have paid highest amount of fees in the preceding market year to the Marketing Board; shall be represented by the respective Chairman to function as ex-officio members of the Marketing Board during the term of the elected Marketing Board;

(d) one chairman of a co-operative society registered in the State of Goa doing the business of processing or marketing of agricultural produce of notified commodities in the market area, to be elected from amongst the Chairmen of such co-operative societies;

(e) two members to be nominated by the Government, one being from the office of the Registrar of Co-operative Societies, Government of Goa and the other being from

the Department of Agriculture, Government of Goa, to function during the term of the elected Marketing Board;

(f) the Secretary of the Marketing Board, to function during the term of the elected Marketing Board."

7. *Amendment of Section 19.*— For Section 19 of the principal Act, the following shall be substituted, namely:—

"19. *Election of Chairman and Vice-Chairman.*— The meeting of the Marketing Board shall be presided over by the Chairman and in absence of the Chairman, by the Vice-Chairman. The Chairman and the Vice-Chairman shall be elected by the members of the Marketing Board, excluding the Secretary of the Marketing Board and the Government nominees. Only the members as mentioned in clauses (a), (c) and (d) of sub-section (1) of section 13 shall be eligible to contest for the post of the Chairman or the Vice-Chairman."

8. *Omission of section 44.*— Section 44 of the principal Act shall be omitted.

9. *General Amendment.*— In the principal Act,—

(i) for the words "Market Committee", wherever they occur, the words "Marketing Board" shall be substituted;

(ii) for the word "Committee", wherever it occurs, the words "Marketing Board" shall be substituted;

(iii) for the words "a Committee" or "a Market Committee" or "every Market Committee" or "any Market Committee" or "such Committee," wherever they occur, the words "The Marketing Board" shall be substituted;

(iv) for the words "A Market Committee", wherever they occur, the words "The Marketing Board" shall be substituted.

10. *Repeal and savings.*— (1) The Maharashtra Agricultural Produce Marketing (Regulation) Act, 1963 (Goa Amendment) Ordinance, 2001 (Ordinance No. 1 of 2001), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance, shall be deemed

to have been done or taken under the principal Act as amended by this Act.

Statement of Objects and Reasons

It was observed that there were various loopholes and shortcomings in the provisions of various sections of the existing Maharashtra Agricultural Produce Marketing (Regulation) Act, 1963 (Maharashtra Act XX of 1964), as in force in the State of Goa. It was, therefore, decided to remove the bottle-necks by suitably amending the provisions of the said Act, 1963. The Maharashtra Agricultural Produce Marketing (Regulation) Act, 1963 (Goa Amendment) Ordinance, 2001 (Ordinance No. 1 of 2001), was accordingly promulgated by the Governor of Goa on 24-5-2001.

This Bill seeks to replace the said ordinance.

Financial Memorandum

No financial implications are involved in this Bill.

Panaji, Goa,
5th July, 2001.

PRAKASH VELIP,
Minister for Cooperation

Assembly Hall,
Porvorim-Goa,
5th July, 2001.

R. KOTHANDARAMAN,
Secretary (Legislature)

ANNEXURE

Extract of the Maharashtra Agricultural Produce Marketing (Regulation) Act 1963, as extended to State of Goa.

2. *Definitions.*— (1) In this Act, unless the context otherwise requires, —

(a) "agricultural produce" means all produce (whether processed or not) of agriculture, horticulture, animal husbandry, apiculture, pisciculture and forest specified in the Schedule;

(b) "Agriculturist" means a person who ordinarily by himself or by hired labour or otherwise is engaged in the production or growth of agricultural produce which has not been processed, but does not include a trader, commission agent, processor or broker in agricultural produce although such trader, commission agent, processor or broker may also be engaged in the production or growth of agricultural produce;

(bb) "Administrator" means the Administrator of the Union territory of Goa, Daman and Diu appointed by the President under article 239 of the Constitution;

(c) "broker" means an agent who contrives, makes and concludes a bargain or contracts on behalf of his principal for the purchase or sale of agricultural produce for which he receives a fee or remuneration, but does not receive, deliver, transport, or pay for the purchase, or collect payment for the sale, of the agricultural produce;

(d) "bye-laws" means bye-laws made under section 61;

(e) "commission agent" means a person who by himself or through his servants buys and sells agricultural produce for another person, keeps it in his custody and controls it during the process of its sale or purchase, and collects payment therefor from the buyer and pays it to the seller, and receives by way of remuneration a commission or percentage upon the amount involved in each transaction;

(f) "State Marketing officer" means a person appointed as the State Marketing Officer for the Union territory of Goa, Daman and Diu;

(g) "local authority" includes a Panchayat or Municipality, as the case may be;

(h) "market area" means an area specified in a declaration made under section 4;

(i) "Market Committee" or "Committee" means a committee constituted for a market area under section 11;

(jj) "Market Proper" means any area within the market area including all lands, with the buildings thereon within such distance of the principal or sub-market yard as the Administrator may by notification declare to be a market proper under section 5 (2);

(k) "members" means a member of a Market Committee;

(l) "Panchayat" means a village Panchayat formed under the Goa, Daman and Diu Village Panchayat Regulation, 1962;

(m) "prescribed" means prescribed by rules made under this Act;

(n) "processor" means a person who processes any agricultural produce on payment of charge;

(nn) "Official Gazette" means the Official Gazette of the Union territory of Goa, Daman and Diu;

(o) "retail sale" means, in relation to any agricultural produce, sale of that produce not exceeding such quantity as a Market Committee may by bye-laws determine to be a retail sale;

(p) "rules" means rules made under this Act;

(q) "Schedule" means the schedule to this Act;

(r) "Secretary" means a Secretary of a Market Committee and includes a Joint, Deputy or Assistant Secretary;

(s) "Surveyor" means a person who on arrival of a consignment of agricultural produce for sale in any market area or market, surveys it for ascertaining the quality, refraction, adulteration and other like factors;

(t) "trader" means a person who buys or sells agricultural produce, as a principal or as duly authorised agent of one or more persons;

(2) If any question arises whether a person is or is not an agriculturist for the purposes of this Act, the matter shall be referred to the State Marketing Officer, and the decision of the State Marketing Officer thereon shall be final.

10. *Provision for settlement of disputes.*— (1) For the purpose of settling disputes between buyers and sellers, or their agents, including any disputes regarding the quality or weight or payment of any agricultural produce, or any matter in relation to the regulation of marketing of agricultural produce in the market area, the Market Committee of that area shall constitute from amongst its members a Board.

(2) The Board shall consist of such number of members, and shall be constituted in such manner, and conduct its business in such manner, as may be prescribed. The rules may provide for appointment of arbitrators, payment of fees by parties for the settlement of disputes, and appeal to the Board from their decision.

CHAPTER III

Constitution of Market Committees

11. *Establishment of Market Committees.*— For every market area there shall be established by the Administrator a Market Committee consisting of a Chairman, a Vice-Chairman and other members and different Market Committee may be established for regulating the marketing of different kinds of agricultural produce for the same market area or any part thereof. The Market Committee shall have all such powers and discharge all such functions as are vested in it by or under this Act.

12. *Incorporation of market Committees.*— Every Market Committee shall be a body corporate by the name of "the Agricultural Produce Market Committee", and shall have perpetual succession and is common Seal, and may in its corporate name sue and be sued, and shall be Competent to contract, acquire and hold property, both movable and immovable, and to do all other things necessary for the purposes for which it is established.

13. *Construction of Market Committees.*— (1) Subject to the provisions of sub-section (2), every Market Committee shall consist of the following eighteen members' namely;

"(a) ten agriculturists residing in the market area (not being less than twenty one years of age on the date specified from time to time by the Collector in this behalf); seven of whom shall be elected by members of the managing committee of the agricultural credit societies and multipurpose co-operative societies registered under the Maharashtra co-operative Societies Act, 1960 as applicable to the Union territory of Goa, Daman and Diu functioning in the market area and three shall be elected by the members of the Village Panchayats functioning therein;"

(b) three shall be elected by trades and commission agents, holding licences to operate as such in the market area;

(c) One shall be the Chairman of the co-operative society doing business of processing or marketing of agricultural produce in the market area; or in his absence a representative of the Co-operative society elected by its managing committee;

Provided that, if there be more than one such co-operative societies in the market area, then the Chairman of any of such co-operative societies, or in his absence a representative, elected by the managing committees of such societies;

(d) one shall be the Chairman of the panchayat within the jurisdiction of which the market area or major portion thereof is situated or the representative elected by such panchayat;

(e) one shall be the President or Sarpanch of the local authority (other than Panchayat) within the jurisdiction of which the principal market is situated or the representative elected by such local authority;

(f) the Marketing Inspector, appointed by the State Marketing Officer, who shall have no right to vote;

(g) the Assistant Marketing Officer or, where there is no such officer, the District Agricultural Officer of the Department of Agriculture; neither of them shall have the right to vote.

(2) When a Market Committee is constituted for the first time, all the members thereof and the Chairman and Vice-Chairman shall be nominated by the Administrator.

Chairman and Vice-Chairman

19. *Election of Chairman and Vice-Chairman.*— Subject to the provisions of sub-section (2) of section 13, every Market Committee shall be presided over by a Chairman, who shall be elected by the committee from among its

elected agriculturist members. The committee shall also elect one of its elected members to be the Vice-Chairman.

44. *Amalgamation or division of Market Committees.*—

(1) Where the Administrator is satisfied that for securing efficient regulation of marketing of any agricultural produce in any market area, it is necessary that two or more Market Committees therein should be amalgamated or any Market Committee therein should be divided into two or more Market Committees, then the Administrator may, after consulting the market committees or Committee, as the case may be, by notification in the Official Gazette, provide for the amalgamation or division of such Market Committees into a single Market Committee or into two or more Market Committees, for the market area in respect of the agricultural produce specified in the notification with such constitution, property, rights, interest and authorities and such liabilities, duties and obligations (including provision in respect of contracts, assets, employees, proceedings, and such incidental, consequential and supplementary matters as may be necessary to give effect to such amalgamation or as the case may be, the division) as may be specified in the notification.

(2) Where more Market Committees than one are established in any market area under sub-section (1), the Administrator may, notwithstanding anything contained in this Act, issue general or special directions as to which of the Market Committees shall exercise the powers, perform the duties and discharge the functions of the Market Committee under this Act, in which they are jointly interest or which are of a common nature.

(3) Where any direction are issued under sub-section (2) the cost incurred by a Market Committee in pursuance of the directions shall be shared by the Other Market Committee concerned in such proportion as may be agreed upon, or, in default of agreement, as may be determined by the Administrator or such Officer as he may direct in this behalf. The decision of the Administrator or such officer shall be final.

LA/E-9/2509/2001

The following Bill which was introduced in the Legislative Assembly of the State of Goa on 19-7-2001 is hereby published for general information in pursuance of the provisions of Rule-138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The Goa Administrative Tribunal (Amendment)
Bill, 2001

(Bill No. 57 of 2001)

A

BILL

further to amend the Goa Administrative Tribunal Act, 1965.

BE it enacted by the Legislative Assembly of Goa in the Fifty-second year of the Republic of India, as follows:—

1. *Short title and commencement.*— (1) this Act may be called the Goa Administrative Tribunal (Amendment) Act, 2001.

(2) It shall come into force at once.

2. *Amendment of section 2.*— In section 2 of the Goa Administrative Tribunal Act, 1965 (Act 6 of 1965) (hereinafter referred to as the 'principal Act') before clause (b), the following clause shall be inserted, namely:—

"(a) 'Additional President' means the Additional President of the Tribunal";

3. *Amendment of section 3.*— In section 3 of the principal Act,—

(i) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) The Tribunal shall consist of a President and an Additional President both of whom shall be appointed by the State Government. Both, the President and the Additional President, shall have co-extensive powers and concurrent jurisdiction to deal with cases filed in the Tribunal. The Additional President shall decide such cases as are made over to him by the President.";

(ii) in sub-section (3),

(a) for the word 'President' the words 'President or Additional President' shall be substituted;

(b) for the existing proviso the following shall be substituted, namely:—

"Provided that the President and the Additional President shall be persons who have

such legal qualification or experience as may be prescribed."

4. *Amendment of section 12.*— In section 12 of the principal Act, for the word 'President', the words 'President or the Additional President' shall be substituted.

5. *Amendment of section 13.*— In section 13 of the principal Act, in clause (c), for the word "President", the words "President or the Additional President" shall be substituted.

Statement of Objects and Reasons

In view of huge pendency of cases in the Administrative Tribunal, it is proposed to suitably amend the Goa Administrative Tribunal Act, 1965 (Act 6 of 1965) so as to provide for appointment of an Additional President in addition to the President, with co-extensive powers and concurrent jurisdiction, so that the Additional President also disposes the cases at his level.

This Bill seeks to achieve the above object.

Financial Memorandum

The recurring expenses involved on the salaries of the Additional President and the minimum supporting staff like 1 Section Officer, 1 Stenographer, 1 U.D.C., 3 L.D.Cs., 2 Bailiffs, 2 Peons and 1 Sweeper, would be to the tune of around Rs. 9. Lakhs per annum. In addition to this, expenditure would have to be incurred on provision of office accommodation, furniture, stationery, etc.

Memorandum Regarding Delegated Legislation

No delegated legislation is involved in this Bill.

Panaji Goa
13th July, 2001.

RAMAKANT D. KHALAP,
Minister for Law

Assembly Hall,
Porvorim, Goa
13th July, 2001.

R. KOTHANDARAMAN,
Secretary (Legislature)

Governor's Recommendation under Article 207
of the Constitution

In pursuance of Article 207 of the Constitution of India, I, Mohammed Fazal, the Governor of Goa hereby recommend to the Legislative Assembly of Goa the introduction and consideration of the Goa Administrative Tribunal (Amendment) Bill, 2001 (Bill No. 57 of 2001).

ANNEXURE

**Extract of Sections 3, 12 and 13 of the Goa
Administrative Tribunal Act, 1965**

3. *Constitution of Tribunal.*— (1) As from the commencement of this Act, there shall be a Tribunal to be called the Administrative Tribunal for the State of Goa to exercise the jurisdiction, perform the functions and discharge the duties entrusted to it by or under this Act or any other law for the time being in force.

(2) The Tribunal shall consist to a President who shall be appointed by the State Government.

(3) The qualifications for a person to be appointed as President shall be such as may be prescribed:

Provided that the President shall be a person who shall have such legal qualifications or experience as may be prescribed.

12. *Indemnity.*— (1) The President of the Tribunal shall not be liable to be sued or proceeded against in any court for any act done or ordered to be done by him or by the Tribunal in the discharge of his or its duty whether or not within the limits of his or its jurisdiction:

Provided that he, at the time, in good faith believed himself to have jurisdiction to do or order the act complained of.

(2) No officer or other person bound to execute the lawful orders of the Tribunal shall be liable to be sued or proceeded against in any court, in respect of the execution of such orders.

13. *Power to make rules.*— (1) The State Government may, by notification in Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for the following matters, namely:—

(a) the process and other fees to be paid and the deposits to be made by the parties to the proceedings before the Tribunal and the manner of accounting of all moneys received by the Tribunal;

(b) the matter in respect of which powers may be vested in the Tribunal.

(c) the fee or honoraria to be paid to the President or the Government Pleader;

(d) any other matter which has to be, or may be prescribed or provided for by rules.

(3) All rules made under this Act shall be published in the Official Gazette and shall be laid on the table of Legislative Assembly after they are made and shall be subject to such modifications as the Assembly may make during the Session in which they are so laid.

LA/E-9/2509/2001

The following Bill which was introduced in the Legislative Assembly of the State of Goa on 19-7-2001 is hereby published for general information in pursuance of the provisions of Rule-138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The Goa Appropriation (No. 12) Bill, 2001

(Bill No. 59 of 2001)

A

BILL

to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of the State of Goa for the services and purposes of the financial year 2001-02.

BE it enacted by the Legislative Assembly of Goa in the Fifty-second Year of the Republic of India as follows:—

1. *Short title.*— This Act may be called the Goa Appropriation (No. 12) Act, 2001.

2. *Issue of Rs. 26,22,80,55,000 out of the Consolidated Fund of the State of Goa for the financial year 2001-02.*— From and out of the Consolidated Fund of the State of Goa, there may be paid and applied sums not exceeding those specified in column (5) of the Schedule amounting in the aggregate to the sums of two thousand six hundred twenty two crores eighty lakhs and fifty five thousand rupees towards defraying the several charges which will arise for payment during the financial year 2001-2002 in respect of the services and purposes specified in column (2) of the Schedule.

3. *Appropriation.*— The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Goa under this Act, shall be appropriated for the services and purposes expressed in the Schedule in relation to the said financial year.

THE SCHEDULE

(See sections 2 and 3)

(Rs. in lakhs)

| Demand No. | Services and purposes | Sums not exceeding | | Total |
|---------------|--|----------------------|--|----------|
| | | Voted by Assembly | Charged on the Consolidated Fund of the State of Goa | |
| (1) | (2) | (3) | (4) | (5) |
| 1 | Legislature Secretariat | 441.00 | 24.00 | 465.00 |
| A1 | Raj Bhavan (Charged) | — | 136.00 | 136.00 |
| 2 | General Administration and Coordination | 914.81 | — | 914.81 |
| 3 | District and Session Court (North Goa) | 324.00 | — | 324.00 |
| 4 | District and Session Court (South Goa) | 283.00 | — | 283.00 |
| 5 | Prosecution | 104.00 | — | 104.00 |
| 6 | Election Office | 32.00 | — | 32.00 |
| 7 | Settlement and Land Records | 277.00 | — | 277.00 |
| 8 | Treasury and Accounts Administration, North Goa | 9122.00 | — | 9122.00 |
| 9 | Treasury and Accounts Administration, South Goa | 95.00 | — | 95.00 |
| A2 | Debt Services (Charged) | — | 44413.50 | 44413.50 |
| 10 | Notary Services | 107.00 | — | 107.00 |
| 11 | Excise | 206.00 | — | 206.00 |
| 12 | Sales and Entertainment Tax | 302.00 | — | 302.00 |
| 13 | Transport | 962.00 | — | 962.00 |
| A3 | Goa Public Service Commission (Charged) | — | 49.00 | 49.00 |
| 14 | Goa Sadan | 93.80 | — | 93.80 |
| 15 | Collectorate, North Goa | 574.00 | — | 574.00 |

| (1) | (2) | (3) | (4) | (5) |
|-----|--|----------|------|----------|
| 16 | Collectorate, South Goa | 548.00 | — | 548.00 |
| 17 | Police | 4596.00 | — | 4596.00 |
| 18 | Jails | 256.75 | — | 256.75 |
| 19 | Industries and Mines | 1210.46 | — | 1210.46 |
| 20 | Printing and Stationery | 304.00 | — | 304.00 |
| 21 | Public Works | 26423.99 | — | 26423.99 |
| 22 | Vigilance | 21.00 | — | 21.00 |
| 23 | Home | 16.00 | — | 16.00 |
| 24 | Goa Public Men's Corruption Investigation and Enquiries | 35.00 | — | 35.00 |
| 25 | Home Guards and Civil Defence | 130.00 | — | 130.00 |
| 26 | Fire and Emergency Services | 356.00 | — | 356.00 |
| 27 | Evacuee Property | 7.00 | — | 7.00 |
| 28 | Administrative Tribunal | 15.00 | — | 15.00 |
| 29 | Estate Office | 5.70 | — | 5.70 |
| 30 | Lotteries | 64983.00 | — | 64983.00 |
| 31 | Panchayats | 1262.00 | — | 1262.00 |
| 32 | Finance | 3110.00 | — | 3110.00 |
| 33 | Revenue | 139.10 | — | 139.10 |
| 34 | School Education | 18928.21 | — | 18928.21 |
| 35 | Higher Education | 2840.20 | — | 2840.20 |
| 36 | Technical Education | 475.00 | — | 475.00 |
| 37 | Government Polytechnic, Panaji | 360.45 | — | 360.45 |
| 38 | Government Polytechnic, Bicholim | 63.00 | — | 63.00 |
| 39 | Government Polytechnic, Curchorem | 125.00 | — | 125.00 |
| 40 | Goa College of Engineering | 453.00 | — | 453.00 |
| 41 | Goa Architecture College | 82.00 | — | 82.00 |
| 42 | Sports and Youth Affairs | 1018.00 | — | 1018.00 |
| 43 | Art and Culture | 514.32 | — | 514.32 |
| 44 | Goa College of Art | 82.00 | — | 82.00 |
| 45 | Archives and Archaeology | 237.00 | — | 237.00 |
| 46 | Museum | 69.00 | — | 69.00 |
| 47 | Goa Medical College | 3747.00 | 1.00 | 3748.00 |
| 48 | Health Services | 4335.68 | — | 4335.68 |
| 49 | Institute of Psychiatry and Human Behaviour | 442.00 | — | 442.00 |
| 50 | Goa College of Pharmacy | 150.00 | — | 150.00 |
| 51 | Goa Dental College | 209.00 | — | 209.00 |
| 52 | Labour | 593.00 | — | 593.00 |
| 53 | Food and Drugs Administration | 122.00 | — | 122.00 |
| 54 | Town and Country Planning | 503.00 | — | 503.00 |
| 55 | Municipal Administration | 1108.00 | — | 1108.00 |
| 56 | Information and Publicity | 176.00 | — | 176.00 |
| 57 | Social Welfare | 383.51 | — | 383.51 |
| 58 | Women and Child Development | 965.00 | — | 965.00 |
| 59 | Factories and Boilers | 106.00 | — | 106.00 |
| 60 | Employment | 64.00 | — | 64.00 |

| (1) | (2) | (3) | (4) | (5) |
|-------|--|-----------|----------|-----------|
| 61 | Craftsman Training | 820.00 | — | 820.00 |
| 62 | Law | 104.00 | — | 104.00 |
| 63 | Rajya Sainik Board | 17.00 | — | 17.00 |
| 64 | Agriculture | 1409.02 | — | 1409.02 |
| 65 | Animal Husbandry and Veterinary | 903.00 | — | 903.00 |
| 66 | Fisheries | 469.28 | — | 469.28 |
| 67 | Ports Administration | 389.00 | — | 389.00 |
| 68 | Forests | 1070.00 | — | 1070.00 |
| 69 | Parks and Gardens | 84.00 | — | 84.00 |
| 70 | Civil Supplies | 5851.00 | — | 5851.00 |
| 71 | Cooperation | 595.00 | — | 595.00 |
| 72 | Science, Technology and Environment | 108.00 | — | 108.00 |
| 73 | State Election Commission | 30.00 | — | 30.00 |
| 74 | Water Resources | 11233.99 | 33.01 | 11267.00 |
| 75 | Planning, Statistics and Evaluation | 319.32 | — | 319.32 |
| 76 | Electricity | 36196.00 | — | 36196.00 |
| 77 | River Navigation | 800.00 | — | 800.00 |
| 78 | Tourism | 1223.00 | 12.00 | 1235.00 |
| 79 | Goa Gazetteer | 12.45 | — | 12.45 |
| 80 | Legal Metrology | 70.00 | — | 70.00 |
| 81 | Appropriation to the Contingency Fund | — | — | 0.00 |
| 82 | Information Technology | 500.00 | — | 500.00 |
| TOTAL | | 217612.04 | 44668.51 | 262280.55 |

Statement of Objects and Reasons

The Budget for the year 2001-2002 was presented to the Legislative Assembly on 22nd March, 2001. The Demands for Grants have since been discussed and voted by Assembly. This Appropriation Bill, is, therefore, introduced in accordance with the provisions of Article 204 of the Constitution to provide for appropriation out of the Consolidated Fund of the State of Goa of the moneys required for the services during the financial year 2001-2002.

Panaji
July, 2001.

MANOHAR PARRIKAR,
Chief Minister

Governor's Recommendation

The Governor has, in pursuance of clauses (1) and (2) of Article 207 of the Constitution of India, recommended to the Legislative Assembly, the introduction and consideration of the Bill.

LA/E-9/2509/2001

The following Bill which was introduced in the Legislative Assembly of the State of Goa on 19-7-2001 is hereby published for general information in pursuance of the provisions of Rule-138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The Goa Appropriation (No. 13) Bill, 2001

(Bill No. 60 of 2001)

A

BILL

to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Goa for the services and purposes of the financial year 2001-02.

BE it enacted by the Legislative Assembly of Goa in the Fifty-second Year of the Republic of India as follows:-

1. *Short title.*— This Act may be called the Goa Appropriation (No. 13) Act, 2001.

2. *Issue of Rs. 80,46,40,000 out of the Consolidated Fund of the State of Goa for the financial year 2001-02.*— From and out of the Consolidated Fund of the State of Goa, there may be paid and applied sums not exceeding those specified in column (5) of the Schedule amounting in the aggregate to the sums of eighty crores forty six lakhs and forty thousand rupees towards defraying the several charges which will come in the course of payment during the financial year 2001-2002 in respect of the services and purposes specified in column (2) of the Schedule.

3. *Appropriation.*— The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Goa under this Act, shall be appropriated for the services and purposes expressed in the Schedule in relation to the said financial year.

THE SCHEDULE

(See sections 2 and 3)

(Rs. in lakhs)

| Demand No. | Services and purposes | Sums not exceeding | | Total |
|---------------|--|----------------------|--|--------|
| | | Voted by Assembly | Charged on the Consolidated Fund of the State of Goa | |
| (1) | (2) | (3) | (4) | (5) |
| A1 | RajBhavan(Charged) | — | 2.50 | 2.50 |
| 2 | General Administration and Coordination | 437.62 | — | 437.62 |
| 5 | Prosecution | 12.00 | — | 12.00 |
| 7 | Settlement and Land Records | 13.88 | — | 13.88 |
| 8 | Treasury and Accounts Administration | 70.30 | — | 70.30 |
| 10 | Notary Services | 40.00 | — | 40.00 |

| (1) | (2) | (3) | (4) | (5) |
|-------------|-------------------------------------|---------|------|---------|
| 12 | Sales and Entertainment Tax | 136.26 | — | 136.26 |
| 13 | Transport | 162.01 | — | 162.01 |
| 17 | Police | 8.00 | — | 8.00 |
| 19 | Industries and Mines | 100.00 | — | 100.00 |
| 21 | Public Works | 2600.00 | 2.07 | 2602.07 |
| 31 | Panchayats | 1075.48 | — | 1075.48 |
| 33 | Revenue | 6.50 | — | 6.50 |
| 34 | School Education | 0.01 | — | 0.01 |
| 40 | Goa College of Engineering | 40.00 | — | 40.00 |
| 42 | Sports and Youth Affairs | 100.00 | — | 100.00 |
| 43 | Art and Culture | 7.00 | — | 7.00 |
| 48 | Health Services | 37.85 | — | 37.85 |
| 54 | Town and Country Planning | 50.00 | — | 50.00 |
| 55 | Municipal Administration | 413.50 | — | 413.50 |
| 58 | Women and Child Development | 0.75 | — | 0.75 |
| 63 | Rajya Sainik Board | 0.50 | — | 0.50 |
| 64 | Agriculture | 131.65 | — | 131.65 |
| 68 | Forests | 14.85 | — | 14.85 |
| 70 | Civil Supplies | 6.03 | — | 6.03 |
| 71 | Cooperation | 45.00 | — | 45.00 |
| 72 | Science, Technology and Environment | 40.00 | — | 40.00 |
| 73 | State Election Commission | 6.97 | — | 6.97 |
| 74 | Water Resources | 0.01 | — | 0.01 |
| 75 | Planning, Statistics and Evaluation | 5.00 | — | 5.00 |
| 76 | Electricity | 2400.00 | — | 2400.00 |
| 77 | River Navigation | 80.00 | 0.66 | 80.66 |
| GRAND TOTAL | | 8041.17 | 5.23 | 8046.40 |

Statement of Objects and Reasons

The Supplementary Demands for Grants for the year 2001-2002 (First Batch) was presented to the Legislative Assembly on 19th July, 2001. This Bill is introduced in pursuance of Article 204 read with Article 205 of the Constitution of India to provide for the appropriation of certain further sums out of the Consolidated Fund of the State of Goa to meet the expenditure on certain services granted by the Legislative Assembly for those services.

Panaji
July, 2001.

MANOHAR PARRIKAR,
Chief Minister

Governor's Recommendation

The Governor has, in pursuance of Article 207 of the Constitution of India, recommended to the Legislative Assembly, the introduction and consideration of the Bill.

LA/E-9/2509/2001

The following Bill which was introduced in the Legislative Assembly of the State of Goa on 19-7-2001 is hereby published for general information in pursuance of the provisions of Rule-138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The Goa (Quorum in the Legislative
Assembly) Bill, 2001

(Bill No. 58 of 2001)

A

BILL

to provide for the quorum to constitute a meeting of the Goa Legislative Assembly at variance with the quorum provided for the Legislature of a State in article 189(3) of the Constitution of India.

BE it enacted by the Legislative Assembly of Goa in the fifty-second year of the Republic of India as follows:

1. *Short title and commencement.*—(1) This Act may called the Goa (Quorum in the Legislative Assembly) Act, 2001.

(2) It shall be deemed to have come into force on the very day on which Rule 17 of the Rules

of Procedure and Conduct of Business of the Goa Legislative Assembly came into force.

2. *Quorum.*—The quorum to constitute a meeting of the Legislative Assembly of the State of Goa shall be one-fifth of the total number of members of the Legislative Assembly.

3. *Procedure for amendment of this Act.*— (1) This Act shall not be amended except in the manner specified herein.

(2) A Bill for amendment of this Act shall, after introduction, be immediately referred by the Speaker of the Legislative Assembly of the State of Goa to any existing Committee of the Legislative Assembly or to a new Committee of the Legislative Assembly that may be nominated by him in that behalf.

(3) The Committee of the Legislative Assembly of the State of Goa to which the Bill has been so referred by the Speaker, shall make a report on the Bill to the Legislative Assembly, if it is in session, or to the Speaker, if it is not in session, within 60 days of such reference.

(2) When the Bill, thereafter, is passed by Legislative Assembly and received the assent of the Governor, this Act shall stand amended accordingly.

Statement of Objects and Reasons

Financial Memorandum

Under article 189 (3) of the Constitution of India, until the Legislature Assembly of the State by law otherwise provides, the quorum to constitute a meeting of a House of the Legislature of a State shall be ten members or one-tenth of the total number of members of the House, whichever is greater, Rule 17 of the Rules of Procedure and Conduct of Business of the Goa Legislative Assembly provides that the quorum to constitute a meeting of the Assembly shall be one-fifth of the total number of members of the House.

2. Since article 189(3) uses the word "law" for the purpose of varying the provisions of article 189 (3), the quorum as specified in the article can only be altered by a law and not by rule of the House. The matter was placed before the All India Conference of Secretaries of the Legislative Bodies held on 28 June 2001 in Chandigarh. The Conference confirmed the view that the quorum as specified in article 189 of the Constitution can be varied only by a law of the Legislature and not by a rule.

3. It is also felt that after enactment of a law in accordance with article 189(3) of the Constitution of India, the law should not be further amended by promulgating an Ordinance since (i) quorum is purely a matter pertaining to the Legislature where all parties are represented, (ii) the question of varying the quorum is not an urgent question that needs to be addressed through promulgation of an Ordinance and (iii) the question of quorum should not be decided unilaterally by the Legislature party in power after marginalizing the role of the parties in opposition on the floor. A special procedure has been laid down in clause 3 of the Bill as conditions precedent to amending such a law. These conditions cannot be met if an Ordinance is sought to be promulgated for amendment of the said law. Clause 3 of the Bill thus ensures that the Bill, on enactment, cannot be amended by promulgation of an Ordinance.

4. The Bill seeks to achieve these objectives.

Porvorim, Goa
9th July, 2001

RAMAKANT D. KHALAP,
Minister for Legislative Affairs

No financial implications are involved in this Bill.

Memorandum Regarding Delegated Legislation

No delegated legislation is involved in this Bill.

Assembly Hall,
Porvorim, Goa.

R. KOTHANDARAMAN,
Secretary (Legislature)

LA/E-9/2518/2001

The following Bill which was introduced in the Legislative Assembly of the State of Goa on 20-7-2001 is hereby published for general information in pursuance of the provisions of Rule-138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The Goa Money - Lenders' Bill, 2001

(Bill No. 66 of 2001)

A

BILL

to make better provisions for the regulation and control of transaction of money-lending in the State of Goa.

BE it enacted by the Legislative Assembly of Goa, in the Fifty-second Year of the Republic of India as follows :—

1. *Short title, extent and commencement.*— (1) This Act may be called the Goa Money Lenders' Act, 2001.

(2) It extends to the whole of the State of Goa.

(3) It shall come into force at once.

2. *Definitions.*— In this Act, unless the context otherwise requires,—

(a) "bank" means a banking company as defined in the Banking Regulation Act, 1949 (Central Act 10 of 1949), and includes :—

(i) the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934 (Central Act 2 of 1934);

(ii) the State Bank of India constituted under the State Bank of India Act, 1955 (Central Act 23 of 1955);

(iii) a subsidiary bank as defined in the State Bank of India (subsidiary Banks) Act, 1959 (Central Act 38 of 1959);

(iv) a corresponding new bank constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (Central Act 5 of 1970); and

(v) any other banking institution notified by the Central Government under section 51 of the Banking Regulation Act, 1949 (Central Act 10 of 1949);

(vi) any co-operative society carrying on the business of banking;

(vii) any residuary non-banking institution duly permitted by the Reserve Bank of India,

(b) "business of money-lending" means the business of advancing loans whether in cash or kind and whether or not in connection with or in addition to any other business;

(c) "capital" means a sum of money which a money-lender invests in the business of money-lending;

(d) "company" means a company as defined in the Companies Act, 1956 (Central Act 1 of 1956);

(e) "co-operative society" means a society registered or deemed to have been registered under the Goa Co-operative Societies Act, in force in this State or the Co-operative Societies Act, 1912, (Central Act 2 of 1912) or any Act of any other legislature relating to Co-operative Societies;

(f) "Government" means the Government of Goa;

(g) "inspection fee" means the fee leviable under section 13 in respect of inspection of books of account of a money-lender;

(h) "interest" includes any sum, by whatsoever name called, in excess of the principal paid or payable to a money-lender in consideration of or otherwise in respect of a loan, but does not include any sum lawfully charged by a money-

lender for or on account of costs, charges or expenses in accordance with the provisions of this Act, or any other law for the time being in force;

(i) "license" means a licence granted under this Act;

(j) "licence fee" means a fee payable in respect of a licence;

(k) "loan" means an advance at interest, whether of money or in kind, but does not include-

(i) a deposit of money or other property in a Government post office bank or in any other bank or in a company or with a Co-operative Society;

(ii) a loan to, or by, or a deposit with any society or association registered under the Societies Registration Act, 1860 (Central Act 21 of 1860), or any other enactment relating to a public, religious or charitable object;

(iii) a loan advanced by the Government or by any local authority authorised by the Government;

(iv) a loan advanced to a Government servant from a fund, established for the welfare or assistance of Government servants, and which is sanctioned by the Government;

(v) a loan advanced by a Co-operative Society;

(vi) an advance made to a subscriber to, or a depositor, in a provident fund, from the amount standing to his credit in the fund in accordance with the rules of the fund;

(vii) a loan to or by an insurance company as defined in the Insurance Act, 1938 (Central Act 4 of 1938);

(viii) a loan advanced to, or by a bank;

(ix) a loan to, or by, or deposit with, anybody (being a body not falling under any of the other provisions of this clause), incorporated by any law for the time being in force in the State of Goa;

(x) an advance of any sum exceeding rupees three thousand made on the basis of a Negotiable Instrument as defined in the Negotiable Instruments Act, 1881 (Central Act 26 of 1881), other than a promissory note;

(xi) an advance of any sum exceeding rupees three thousand made on the basis of a hundi (written in English or any other Indian language);

(xii) an advance made bonafide by any person carrying on any business, not having for its primary object the lending of money, if such advance is made in the regular course of his business;

(xiii) except for the purposes of sections 29 and 31,—

(A) a loan, by a landlord to his tenant for financing of crops or seasonal finance, of not more than Rs. 5 per acre of land held by the tenant;

(B) a loan advanced to an agricultural labourer by his employer.

Explanation:— The expression "tenant" shall have the meaning assigned to it in the Goa, Daman and Diu Agricultural Tenancy Act, 1964 (Act 7 of 1964), or any other relevant tenancy law in force relating to tenancy or agricultural lands;

(l) "money-lender" means,—

(i) an individual; or

(ii) an undivided Hindu Family; or

(iii) a company; or

(iv) an unincorporated body of individuals, who or which—

(a) carries on business of money-lending in the State; or does any activity of lending of any finance;

(b) has his or its principal place of such business in the State, and includes a pawn-broker but does not include—

(i) Government,

(ii) a local authority,

(iii) a bank,

(iv) the Agricultural Refinance Corporation constituted under the Agricultural Refinance (AND Development) Corporation Act, 1963 (Central Act 10 of 1963); or

(v) any other banking, financial or any institution which the Government may, by notification in the Official Gazette, specify in this behalf;

(m) "pawn-broker" means a money-lender who in the ordinary course of his business advances a loan and takes goods or property in pawn as security for payment of such loan;

(n) "prescribed" means prescribed by rules made under this Act;

(o) "principal" means in relation to a loan, the amount actually advanced to the debtor;

(p) "Provident Fund" means a Provident Fund as defined in the Provident Funds Act, 1925 (Central Act 19 of 1925), and includes a Government Provident Fund and a Railway Provident Fund as defined in the said Act;

(q) "State" means the State of Goa;

(r) "recognised language" means in Konkani, Marathi, Hindi, English;

(s) "register" means the register of money-lenders maintained under section 4;

(t) "rules" means the rules made under this Act;

(u) "suit to which this Act applies" means any suit or proceeding—

(a) for the recovery of a loan made before or after the day on which this Act comes into force;

(b) for the enforcement of any security taken or any agreement, made after the date on which this Act comes into force in respect of any loan made either before or after the said date; or

(c) for the redemption of any security given after the date on which this Act comes into force in respect of any loan made either before or after the said date,—

(v) "trader" means a person who in the regular course of business buys and sells goods or other property, whether movable or immovable, and includes—

(i) a wholesale or retail merchant,

(ii) a commission agent,

(iii) a broker,

(iv) a manufacturer,

(v) a contractor,

(vi) a factory owner,

but does not include an artisan or a person who sells his agricultural produce or cattle or buys agricultural produce or cattle for his use.

Explanation:— For the purposes of this clause, an "artisan" means a person who does not employ more than 10 workers in a manufacturing process on any one day of the twelve months immediately preceding.

3. *Appointment of Registrars and Assistant Registrars.*— The Government may, by notification in the Official Gazette, appoint such persons, whether public officers or not, as it thinks proper, to be Registrars and Assistant Registrars of money-lenders, for the purposes of this Act and may define the areas within which each such officer shall exercise his powers and perform his duties.

4. *Register of money-lenders.*— Every Assistant Registrar shall maintain for the area in his jurisdiction a register of money-lenders' as prescribed by the Government.

5. *Money-lender not to carry on business of money-lending except for area under licence and except in accordance with terms of licence.*— On and from the commencement of this Act, no money-lender shall carry or continue to carry on the business of money-lending except in the area for which he has been granted a licence and except in accordance with the terms and conditions of such licence.

6. *Application for licence.*— (1) Every money-lender shall annually, before such date as may be prescribed, make an application in the prescribed form for the grant of licence to the Assistant Registrar of the area within the limits of whose Jurisdiction the place where he carries on or intends to carry on the business of money-lending is situated. When he carries on or intends to carry on such business at more than one place, a separate application in respect of each such place shall be made to such Assistant Registrar. Such application shall contain the following particulars, namely:—

(i) the true name/s of the place/places in which such money-lender intends to carry on business and the true name/s of the person/s proposed to be responsible for the management of the business;

(ii) if the application is by or on behalf of—

(a) an individual, the true name and address of such individual,

(b) an undivided Hindu family, the true name and address of the manager and the adult coparceners of such family;

(c) a company, the true names and the addresses of the directors, manager or principal officer managing it;

(d) an unincorporated body of individuals, the true names and addresses of such individuals;

(iii) the area and the place or principal place of the business of money-lending in the State;

(iv) the name of any other place in the State where the business of money-lending is carried on or intended to be carried on;

(v) whether the person signing the application has himself or any of the adult coparcener of an undivided Hindu family, or any director, manager or principal officer of the company or any member of the unincorporated body on behalf of which such application has been made, as the case may be, has carried on the business of money-lending in the State in the year ending on the 31st day of March immediately preceding the date of the application either individually, or in partnership, or jointly with any other coparcener or any other person and whether in the same or any other name;

(vi) the total amount of the capital which such person intends to invest in the business of money-lending in the year for which the application has been made;

(vii) if the places at which the business of money-lending is to be carried on are more than one, the true names of persons who shall be in the management of the business at each such place.

(2) The application shall be in writing and shall be signed as follows and accompanied by a fee of Rs.500/- towards processing charges.—

(a) (i) if the application is made by an individual, by the individual;

(ii) if the application is made on behalf of an undivided Hindu family, by the manager of such family;

(iii) if the application is made by a company or unincorporated body, by the managing director or any other person having

control of its principal place of business in the territory of India or of its place of business in the area in which it intends to carry on the business; or

(b) by an agent authorised in this behalf by a power of attorney by the individual money-lender himself, or the family, or the company or the unincorporated body, as the case may be.

(3) The application shall also contain such other particulars as may be prescribed.

(4) Every application shall be accompanied by a licence fee of ten thousand rupees:

Provided that, where an application is made after the expiry of the period prescribed, it shall be accompanied by a licence fee of twenty thousand rupees.

(5) The fee payable under this section shall be paid in the manner prescribed and shall not be refunded, notwithstanding the fact that the application is withdrawn.

7. *Grant of licence and entry in register.*— On the receipt of an application under section 6, the Assistant Registrar shall forward the application, together with his report, to the Registrar. Subject to the provisions of this Act, the Registrar may after making such further inquiry, if any, as he deems fit, grant the applicant a licence in such form and subject to such conditions as may be prescribed, and direct the Assistant Registrar to enter the name of such applicant in the register maintained by him under section 4.

8. *Licence fee.*— Upon the grant of a licence, the licensee shall be required to pay a sum of Rs. 10,000/- towards licence fee or such other higher sum as may be notified by the Government.

9. *Refusal of issue of licence.*— (1) The grant of a licence shall not be refused except on any of the following grounds :—

(a) that the applicant, or any person responsible or proposed to be responsible for the management of his business as a money-lender is disqualified from holding a licence ;

(b) that the applicant has not complied with the provisions of this Act or the rules in respect of an application for the grant of licence;

(c) that the applicant has made wilful default complying with or knowingly acted in contravention of any requirement of this Act ;

(d) that satisfactory evidence has been produced that the applicant or any person responsible or proposed to be responsible for the management of his business of money-lending has—

(i) knowingly participated in or connived at any fraud or dishonesty in the conduct of or in connection with the business of money-lending; or

(ii) been found guilty of an offence under Chapter XVII or sections 465, 477 or 477-A of Chapter XVIII of the Indian Penal Code, 1860 (Central Act 45 of 1860);

(iii) In the opinion of the Registrar, used money from the source which is questionable and doubtful.

(2) The Registrar shall, before refusing a licence under sub-section (1), give to the applicant a reasonable opportunity of producing evidence, if any, in support of the application and of showing cause why the licence should not be refused; and record the evidence adduced before him and his reasons for such refusal.

(3) An appeal shall lie from an order of the Registrar refusing a licence under sub-section (1) to the Government, whose decision thereon shall be final.

10. *Registrar's power to cancel licences.*—

(1) The Registrar may, during the term of any licence, cancel the same by an order in writing on the ground that the person to whom it was granted has been guilty of any act or conduct for which he might under section 9 have refused him the grant of the licence and which act or conduct was not brought to his notice at the time of the grant.

(2) Before cancelling a licence under sub-section (1), the Registrar shall give notice in writing to the licensee and may hold such inquiry as may be necessary.

(3) An appeal shall lie from an order of the Registrar cancelling a licence under sub-section (1) to the Government whose decision thereon shall be final.

11. *Term of licence.*— A licence shall be valid from the date on which it is granted up to the 31st day of July following:

Provided that when an application for renewal of a licence has been received by an Assistant Registrar within the prescribed period, the licence shall, until the application is finally disposed of, be deemed to be valid.

12. *Fees for renewal of licence.*— The fees for renewal of licence shall be Rs.5,000/- per annum.

13. *Levy of inspection fee.*— (1) An inspection fee shall, in addition to the licence fee leviable under section 8, be levied and collected from money-lender applying for a renewal of licence at the rate of one per cent of the maximum capital utilised by him during the period of the licence sought to be renewed, or rupees five hundred, whichever is less.

(2) In default of payment of an inspection fee leviable under sub-section (1), it shall be recoverable from the defaulter in the same manner as an arrears of land revenue.

Explanation:— For the purpose of this section, "maximum capital" means the highest total amount of the capital sum which may remain invested in the money-lending business on any day during the period of a licence.

14. *Stay of suits by money-lender not holding licence.*— (1) No court shall pass a decree in favour of a money-lender in any suit to which this Act applies, unless the court is satisfied that at the time when the loan or any part thereof, to which the suit relates was advanced, the money-lender held a valid licence, and if the court is satisfied that the money-lender did not hold a valid licence, it shall dismiss the suit.

(2) Nothing in this section shall affect —

(a) suits in respect of loans advanced by a money-lender before the date on which this Act comes into force; provided such money-lender has, within 15 days of the date of coming into force of this Act, registered himself;

(b) the powers of a Court of Wards, or an Official Assignee, a receiver, an administrator or a Court under the provisions of the Presidency-Towns Insolvency Act, 1909 (Central Act 3 of 1909), or the Provincial Insolvency Act, 1920 (Central Act 5 of 1920) or any other law in force corresponding to that Act, or of a liquidator under the Companies Act, 1956, to realise the property of a money-lender.

15. *Regarding past transactions of money-lending.*— Every person who has advanced a sum of money or is otherwise covered by the provisions of this Act shall register all such past transactions of money-lending with the Registrar within 15 days of the coming into force of this Act under an intimation thereof.

16. *Application for cancellation of licence.*— (1) Any person may, during the currency of a licence, file an application to the Registrar for the cancellation of the licence issued to a money-lender on the ground that such money-lender has been guilty of any act or conduct for which the Registrar may under section 9 refuse him the grant of a licence. At the time of filing his application the said person shall deposit such amount not exceeding Rs.500/- as the Registrar may deem fit.

(2) On the receipt of such application and deposit or of a report to that effect from an officer acting under section 18 the Government shall hold an inquiry and if it is satisfied that the money-lender has been guilty of such act or conduct it may direct the Registrar to cancel the licence of the money-lender and may also direct the return of the deposit made under sub-section (1).

(3) If, in the opinion of the Registrar, an application made under sub-section (1) is frivolous or vexatious, he may, out of the deposit made under sub-section (1), direct to be paid to the money-lender such amount as he deems fit as compensation.

17. *Registrar and Assistant Registrar to have powers of Civil Court.*— For the purposes of sections 7 and 18, the Registrar, Assistant Registrar, and, as the case may be, the officer authorised under section 18 and for the purposes of section 16, the Registrar shall have and may exercise the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), in respect of the following matters :—

(a) enforcing the attendance of any person and examining him on oath ;

(b) compelling the production of documents and materials/objects ;

(c) issuing commissions for the examination of witnesses ; and

(d) proof of facts by affidavits.

18. *Power of authorised officer to require production of records or documents.*— For the purpose of verifying whether the business of money-lending is carried on in accordance with the provisions of this Act, the Registrar, Assistant Registrar or any other officer authorised by the Government in this behalf may require any money-lender or any person in respect of whom the Registrar, Assistant Registrar or the officer so authorised has reason to believe that he is carrying on the business of money-lending in the State, to produce any record or documents in his possession which in his opinion is relevant for the purpose and thereupon such money-lender or person shall produce such record or document. The Registrar, Assistant Registrar or officer so authorised may, after reasonable notice, at any reasonable time, enter and search without warrant any premises where he believes such record or document to be and inspect such record or document and may ask any question necessary for interpreting or verifying such record and shall forward a report in that regard to the Government.

19. *Disposal of property pledged with money-lender carrying on business of money-lending without valid licence.*— (1) If, upon the inspection of records and documents made under section 18, the inspecting officer is satisfied that the money-lender is in possession of property pledged to him by a debtor as security for the loan advanced by the money-lender in the course of his business of money-lending without a valid licence or in violation of sections 14 and 15 of this Act, the inspecting officer shall require the money-lender to deliver forthwith the possession of such property to him.

(2) Upon the property being delivered to him, the inspecting officer, if he is not the Registrar, shall entrust it to the Registrar and the Registrar when he is also the inspecting officer shall keep it in his custody for being disposed of as hereinafter provided.

(3) On delivery of the property under sub-section (1) or sub-section (2), the Registrar shall, after due verification and identity thereof, return it to the debtor who had pledged it or, where the debtor is dead, to his known heirs.

(4) If the debtor or his known heirs cannot be traced, the Registrar shall, within ninety days from the date of taking possession of the

property, publish a notice in the prescribed manner inviting claims thereto. If, before the expiry of the said period, a claim is received, whether in answer to the notice or otherwise, he shall adjudicate upon and decide such claim. If the Registrar is satisfied that any claim is valid, he shall deliver the possession of the property to the person claiming it on his giving a receipt therefor; and such delivery of the property to the person claiming it shall discharge the Registrar of his liability in respect of such property against any other person. If the claim is refused, the property shall stand forfeited to the Government.

(5) Where the possession of the property pledged by a debtor cannot, for any reason including identity thereof be delivered to him, then the money-lender to whom it was pledged shall be required to pay to the debtor or if he is dead, to his known heir, the value of such property if such debtor or, as the case may be, the heir claims the property. If the money-lender fails to pay the value, it may be recoverable from him as an arrear of land revenue; and on recovery of the value, it shall be delivered to the debtor by whom such property was pledged or, as the case may be, to the heir.

(6) If there is difference of opinion between the money-lender and the debtor or, as the case may be, his heir, on the question of value of the property or its identity, the question shall be referred to the Registrar for decision and his decision on the question shall be final.

(7) The value of the property may be determined with the assistance of the services of an expert appointed by the Government in that behalf. The expert may be paid such honoraria as the Government or any officer not below the rank of a Mamlatdar appointed by it may by an order in writing from time to time in relation to any area or areas determine.

20. *Court's power to cancel or suspend a licence.*— (1) (i) A Court passing an order of conviction against a money-lender for an offence under this Act; or

(ii) a Court trying a suit to which this Act applies; if satisfied that such money-lender has committed contravention of the provisions of this Act or the rules as would, in its opinion, make him unfit to carry on the business of money-lending.—

(a) shall order that all the licences held by such money-lender in the State be

cancelled or suspended for such time as it may think fit; and

(b) shall, if it thinks fit, declare any such money-lender, or if any money-lender is an undivided Hindu family, a company or an unincorporated body, such family, company or body and also any person responsible for the management of the business of money-lending carried on by such family, company or body, to be disqualified from holding any licence in the State for such time as the court may think fit.

(2) Where a Court convicts a money-lender of an offence under this Act, or, makes an order or declaration under clause (a) or (b) of sub-section (1), it shall cause the particulars of the conviction, order or declaration, as the case may be, to be endorsed on all the licences which were granted for the purpose and also cause such particulars to be entered in the registers:

Provided that where any licence held by any money-lender is suspended or cancelled or any money-lender is disqualified from holding any licence he may appeal from the decision of the Court passing the order; and the Court of appeal may, if it thinks fit, pending the appeal, stay the operation of the order under this section.

(3) Any licence required by a Court for endorsement in accordance with sub-section (2), shall be produced by the person by whom it is held in such manner and within such time as may be directed by the Court and any person who, without reasonable cause, makes default in producing the licence so required shall be liable, on conviction, to a fine not exceeding Rs. 500 for each day for the period during which the default continues.

(4) Powers conferred on a Court under this section may be exercised by any Court in appeal or in revision.

21. *No compensation for suspension or cancellation of licence.*— Where any licence is suspended or cancelled under this Act, no person shall be entitled to any compensation or the refund of any licence fee or inspection fee.

22. *Persons debarred from doing business during period of suspension or cancellation of licence.*— A person whose licence has been

suspended or cancelled in accordance with the provisions of this Act shall, during the period of suspension or cancellation, as the case may be, be disqualified from holding any licence in the State.

23. *Person whose licence is suspended or cancelled not to apply without giving particulars of endorsement or of disqualification.*— No person whose licence has been endorsed under section 20 or who has been disqualified from holding a licence shall apply for, or be eligible to hold, a licence, without giving particulars of such endorsement or disqualification.

24. *Duty of money-lender to keep accounts, and furnish copies.*— (1) Every money-lender shall keep and maintain a cash book and a ledger, and shall have such accounts audited by an authorised auditor.

(2) Every money-lender shall-

(a) deliver or cause to be delivered-

(i) to the debtor within 30 days from the date on which a loan is made, a statement in any recognised language, showing in clear and distinct terms the amount and date of the loan and of its maturity, the nature of the security, if any, for the loan, the name and address of the debtor and of the money-lender and the rate of interest charged:

Provided that no such statement shall be required to be delivered to a debtor if he is supplied by the money-lender with a pass book which shall be in the prescribed form and shall contain an up-to-date account of the transactions with the debtor;

(ii) to the Assistant Registrar, within the said period, a statement containing the particulars referred to in clause (a) (i);

(b) upon repayment of a loan in full, mark indelibly every paper signed by the debtor with words indicating payment or cancellation, and discharge every mortgage, restore every pledge, return every note and cancel or reassign every assignment given by the debtor as security for the loan.

(3) Notwithstanding anything contained in clause (a) (ii) of sub-section (2), the Government may, by order in writing, permit such class of money-lenders as may be specified in the order

to deliver or cause to be delivered to the Assistant Registrar a statement containing the particulars referred to in clause (a) (i) of sub-section (2) in respect of all loans made during every such period as may be specified in the order. And upon the issue of such order, a money-lender electing to deliver a periodical statement as provided in this sub-section shall deliver or cause to be delivered the same within a period of 30 days from the date of expiry of every such period.

(4) No money-lender shall receive any payment from a debtor on account of any loan without giving him a plain and complete receipt for the payment.

(5) No money-lender shall accept from a debtor any article as a pawn, pledge or security for a loan without giving him a plain signed receipt for the same with its description, estimated value, the amount of loan advanced against it and such other particulars as may be prescribed. Such money-lender shall maintain the duplicates of such receipts in a separate register.

25. *Delivery of statement of accounts and copies thereof by money-lender.*— (1) Every money-lender shall deliver or cause to be delivered every year to each of his debtors a legible statement of such debtor's accounts signed by the money-lender or his agent of any amount that may be outstanding against such debtor. The statement shall show—

(i) the amount of principal, the amount of interest, separately, due to the money-lender at the beginning of the year ;

(ii) the total amount of loans advanced during the year ;

(iii) the total amount of repayments received during the year ; and

(iv) the amounts of principal and interest due at the end of the year.

The Statement shall be signed by the money-lender, or his agent, and shall be in any recognised language. It shall be in such form and shall be supplied to the debtor on or before such date as may be prescribed:

Provided that no such statement shall be required to be delivered to a debtor if he is supplied by the money-lender with a pass book which shall be in the prescribed form and shall

contain an up-to-date account of the transactions with the debtor.

The money-lender shall, on or before the aforesaid date, deliver or cause to be delivered a statement containing the particulars specified in clauses (i) to (iv) to the Assistant Registrar.

(2) In respect of any particular loan, whether advanced before or after the date on which this Act comes into force, the money-lender shall, on demand in writing being made by the debtor at any time during the period when the loan or any part thereof has not been repaid, and on payment of the prescribed fee, supply to the debtor, or if the debtor so requires, to any person specified in that behalf in the demand, a statement, in any recognised language, signed by the money-lender or his agent, and containing the relevant particulars specified in sub-section (1).

(3) A money-lender shall, on a demand in writing by the debtor, on tender of the prescribed sum of expenses, supply a copy of any document relating to a loan made by him or any security thereof to the debtor, or if the debtor so requires, to any person specified in that behalf in the demand.

(4) For the purposes of this section, "year" means the year for which the accounts of the money-lender are ordinarily in his own books.

26. *Debtor not bound to admit correctness of accounts.*— A debtor to whom a statement of accounts or a pass book has been furnished under section 25 shall not be bound to acknowledge or deny its correctness and failure to do so shall not, by itself, be deemed to be an admission of correctness of the accounts.

27. *Procedure of Court in suit regarding loans.*— Notwithstanding anything contained in any law for the time being in force, in any suit to which this Act applies—

(a) a Court shall, before deciding the claim on merits, frame and decide the issues whether the money-lender has complied with the provisions of sections 24 and 25 ;

(b) if the Court finds that the provisions of section 24 or section 25 have not been complied with by the money-lender, it may, if the plaintiff's claim is established, in the whole or in part, disallow the whole or any portion of the interest found due, as may seem reasonable to it in the circumstances of the case and may disallow costs.

Explanation.— A money-lender who has given the receipt or furnished statement of accounts or a pass book in the prescribed form and manner, shall be held to have complied with the provisions of section 24 or section 25, as the case may be, in spite of any errors or omissions, if the Court finds that such errors and omissions are not material or not made fraudulently.

28. *Provisions of certain sections not to apply to loans made by company or unincorporated body exempted by Government.*— Nothing in section 24 to 27 shall apply to loans advanced by any company or unincorporated body which the Government may, by notification in the Official Gazette, exempt from operation of those sections for reasons to be recorded in writing.

29. *Power of Court to limit interest recoverable in certain cases.*— Notwithstanding anything contained in any agreement contract, instrument, usage, custom or any law for the time being in force, no Court shall in respect of any loan, whether advanced before or after the date on which this Act comes into force, decree on account of interest, a sum greater than principal of the loan due on the date of decree.

30. *Power of Court to direct payment of decretal amount by instalment.*— Notwithstanding anything contained in the Code of Civil Procedure, 1908, the Court, may at any time, on application of a judgement-debtor, after notice to the decree-holder, direct that the amount of any decree passed against him, whether before or after the date on which this Act comes into force, in respect of a loan, shall be paid in such number of instalments and subject to such conditions, and payable on such dates, as having regard to the circumstances of the Judgement-debtor and the amount of the decree, it considers fit.

31. *Limitation on rates of interest.*— (1) The Government may, from time to time, by a notification in the Official Gazette, fix the maximum rate of interest for any local area or class of business of money-lending in respect of secure and unsecured loans and until such rates are fixed, the maximum interest charged shall not exceed 24% per annum.

(2) No money-lender shall receive from a debtor or intending debtor any sum by way of compound interest on a loan advanced or intended to be advanced or any sum by way of interest at a rate higher than the rate fixed under

sub-section (1) for any default committed by the debtor in payment of the sums on due date in accordance with the terms on which the loan is granted:

Provided that the money-lender, in case of such default, may charge simple interest at a rate not exceeding the rate payable in respect of the principal on the sums due in respect of the period commencing on the date on which they become due for payment and ending on the date on which they are actually paid.

(3) Notwithstanding anything contained in any law for the time being in force, no agreement between a money-lender and a debtor for payment of interest at the rates exceeding the maximum rates fixed by the Government under sub-section (1) and no agreement in contravention of the provisions of sub-section (12) shall be valid.

(4) If any money-lender or a person advancing a loan specified in sub-clause XIII of clause (k) of section 2 makes an oral or written demand or charges or receives from a debtor interest at rate exceeding the maximum rate fixed by the Government under sub-section (1), he shall, for the purposes of section 43, be deemed to have contravened the provisions of this Act.

32. *Provision of charge for expenses on loans by money-lender.*— (1) No money-lender shall receive from a debtor or intending debtor any sum other than reasonable costs of investigating title to the property, costs of stamp, registration of documents and other usual out-of-pocket expenses in cases where an agreement between the parties includes a stipulation that property is to be given as security or by way of mortgage and where both parties have agreed to such costs and reimbursement thereof or where such costs, charges or expenses are leviable under the provisions of the Transfer of Property Act, 1882, or any other law for the time being in force.

(2) Any sum received by a money-lender in contravention of sub-section (1) from a debtor or intending debtor on account of costs, charges, or expenses referred to in that sub-section shall be recoverable from the money-lender as debt due from him to the debtor or, as the case may be, intending debtor, or shall be liable to be set off against the loan actually lent to the debtor or intending debtor.

33. *Notice and information to be given on assignment of loans.*— (1) Where a loan advanced, whether before or after the date on which this Act come into force, or any interest of such loans or the benefit of any agreement made or security taken in respect of such loan or interest is assigned to any assignee, the assignor whether he is the money-lender by whom the money was lent or any person to whom the debt has been previously assigned shall, before the assignment is made—

(a) give the assignee notice in writing that the loan, interest, agreement or security is affected by the operation of this Act;

(b) supply to the assignee all information necessary to enable him to comply with the provisions of this Act; and

(c) give the debtor notice in writing of the assignment supplying the name and address of the assignee.

(2) Any person acting in contravention of the provisions of sub-section (1) shall be liable to indemnify any other person who is prejudiced by the contravention.

34. *Application of Act as respects assignees.*— (1) Save as here in after provided, where any debt due to a money-lender in respect of money lent by him, whether before or after the date on which this Act comes into force or of interest on money so lent or of the benefit of any agreement made or security taken in respect of any such debt or interest, has been assigned, the assignee shall be deemed to be the money-lender and all the provisions of this Act shall apply to such assignee as if he were the money-lender.

(2) Notwithstanding anything contained in this Act or in any other law for the time being in force, where, for any reason, any such assignment is invalid and the debtor has made any payment of money or transfer of property on account of any loan which has been so assigned, the assignee shall in respect of such payment or transfer be deemed to be the agent of the money-lender for all purposes of this Act.

35. *Reopening of transactions.*— Notwithstanding anything contained in any law for time being in force, the Court shall, in any suit to which

this Act applies, whether heard ex-parte or otherwise—

(a) reopen any transaction, or any account already taken between the party;

(b) take an account between the parties;

(c) reduce the amount charged to the debtor in respect of any excessive interest;

(d) if on taking accounts it is found that the money-lender has received more than what is due to him, pass a decree in favour of the debtor in respect of such amount;

Provided that in exercise of these powers, the Court shall not —

(i) reopen any adjustment or agreement purporting to close previous dealings and to create new obligations which have been entered into by the parties or any person through whom they claim at a date more than six years from the date of this suit;

(ii) do anything which affects any decree of Court.

Explanation :— For the purposes of this section, "excessive interest" means compounded interest or at a rate which contravenes any of the provisions of section 31.

36. *Inquiry for taking accounts and declaring the amount due.*— (1) Any debtor may make an application at any time to the Court, whether the loan has or has not become payable, for taking accounts, and for declaring the amount due to the money-lender. Such application shall be in the form prescribed for Civil Suit under the Code of Civil Procedure, 1908 and accompanied by a fee of Rs. 500/-.

(2) On receipt of such application, the Court shall cause a notice of the application to be given to the money-lender.

(3) On the date fixed for the summary hearing of the application or on such date to which the hearing may be adjourned, the Court shall make an inquiry and shall, after taking an account of the transactions between the parties, pass an order declaring the amount, if any, still payable by the debtor to the money-lender, in respect of the principal and interest, if any. In taking accounts under this section, the Court shall follow the provisions of sections 24 to 35 provided

that such applications shall be tried summarily and disposed off within 3 months from the date of filing.

37. *Deposit in Court of money due to money-lender.*— (1) At any time, a debtor may tender to a money-lender any sum of money due from him to the money-lender in respect of a loan by way of principal, interest or both.

(2) If the money-lender refuses to accept any sum so tendered, the debtor may deposit the said sum in Court to the account of the money-lender.

(3) The Court shall, thereupon, cause written notice of the deposit to be served on the money-lender, and he may, on presenting a petition stating the sum when due in respect of the loan and his willingness to accept the said sum, receive and appropriate first towards the interest and the residue, if any, towards the principal.

(4) When the money-lender does not accept the sum, the Court shall appropriate the said sum first towards the principal and interest proportionately.

38. *When interest to be paid for entire month.*— Notwithstanding any agreement between the parties or any law for the time being in force, when a statement is delivered or pass book is supplied to a debtor under section 25 or if accounts are taken under section 36 or a tender is made by a debtor to a money-lender in respect of a loan under section 37 before the sixteenth day of a calendar month, the interest due shall be calculated as payable for fifteen days of the said month, and if the statement is delivered or pass book is supplied or accounts are taken or tender is made on any subsequent day, then for the entire calendar month irrespective of the fact that such statement is delivered or pass book is supplied or such accounts are taken or such tender is made on any such day.

39. *Entry of a wrong sum in bond, etc., to be an offence.*— (1) No money-lender shall take any promissory note, acknowledgement, bond or other writing which does not state the actual amount of the loan, or which states such amount wrongly or execute any instrument in which blanks are left to be filled after execution

(2) Whoever contravenes the provisions of sub-section (1), shall, on conviction, be punishable with fine which may extend to Rs. 50,000/- or with imprisonment of either

description which may extend to three years or with both.

40. *Penalty for making false statement.*— Whoever, in any document required by, or for the purposes of, any of the provisions of this Act, wilfully makes a statement in any material particulars knowing it to be false, shall, on conviction, be punished with imprisonment for a term which may extend to three years or with fine which may extend to fifty thousand rupees or both.

41. *Penalty for obtaining licence under fictitious name, carrying on money-lending business without valid licence and entering into agreement in the course of money-lending business carried on under fictitious name; whoever,—*

(a) obtains a licence in the name which is not his true name or carries on the business of money-lending under licence so obtained, or

(b) carries on business of money-lending at any place without holding a valid licence authorizing him to carry on such business at such place, or

(c) enters into any agreement in the course of business of money-lending without a valid licence or under a licence obtained in the name which is not his true name shall, on conviction, be punished,—

(i) for the first offence, with imprisonment of either description which may extend to one year or with fine which may extend to rupees fifty thousand and five hundred or with both, and

(ii) for the second or subsequent offence, in addition to, or in lieu of, the penalty of Rs. one lakh, with imprisonment which shall not be less than two years, where such person is not a company, and with fine which shall not be less than rupees one lakh, where such person is a company.

42. *Penalty for molestation.*— (1) Whoever molests, assaults or abets the molestation, assault of a debtor for the recovery of a debt due by him to a money-lender shall, on conviction, be punishable with imprisonment of either description which may extend to three months or with fine which may extend to rupees fifty thousand or with both.

Explanation.— For the purposes of this section, a person who, with intent to cause another person to abstain from doing any act which he has a right to do or to do any act which he has a right to abstain from doing—

(a) obstructs or uses violence to or intimidates such other person; or

(b) persistently follows such other persons from place to place or interferes with any property owned, or used by him or deprives him of, or hinders him in, use thereof; or

(c) loiters near a house or other place where such other person resides or works or carries on business, or happens to be, or does any act calculated to annoy or intimidate such other person, molest shall be deemed to molest such other person:

Provided that a person who goes to search out for the place in order merely to obtain or communicate information shall not be deemed to molest.

43. *General provision regarding penalties.*— Whoever fails to comply with or acts in contravention of any provision of this Act, shall, if no specific penalty has been provided for in this Act, be punishable —

(a) for the first offence with simple imprisonment which may extend to one year or with fine which may extend to rupees fifty thousand or with both, and

(b) for the second or subsequent offence, with imprisonment of either description which may extend to two years or with fine which may extend to rupees 1,00,000/- or with both.

44. *Offences by corporations, etc.*— If the person contravening any of the provisions of this Act is an undivided Hindu family or a company or an unincorporated body, the person responsible for the management of the business of such family, company or body shall be deemed to be guilty of such contravention.

45. *Certain offences to be cognizable.*— Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), offences punishable,—

(a) under section 43 for contravening the provisions of section 5; and

(b) under section 42, shall be cognizable.

46. *Cognizance of certain offences.*— Every Court of Sessions, Judicial Magistrate First Class,

shall take cognizance of any offence punishable under section 43 for contravening the provisions of section 24 or section 25, on a complaint made before it by any person.

47. *Arrest and imprisonment in execution of decree for money, against agricultural debtors, abolished.*— Notwithstanding any law for the time being in force, no debtor who cultivates land personally and whose debts do not exceed Rs. 1,00,000/- shall be arrested or imprisoned in execution of a decree for money passed in favour of money-lender, whether before or after the date on which this Act come into force.

Explanation.— "to cultivate personally" has the meaning assigned to it in clause (7) of section 2 of the Goa, Daman and Diu Agricultural Tenancy Act, 1964 (Act 7 of 1964)

48. *Every officer to be public servant.*— Every officer of the Government or officers, acting under the provisions of this Act, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (Central Act 45 of 1860).

49. *Power of the Government to delegate its powers.*— The Government may delegate to any officer any of the powers conferred on it by or under this Act.

50. *Power to make rules.*— (1) The Government may make rules for carrying out the purposes of this Act, and issue directions to the officers, or generally from time to time for carrying out the purposes of this Act,

(2) In particular and without prejudice to the generality of the foregoing provisions, such rules may provide for all or any of the following matters:—

(a) the form of register under section 4;

(b) the form of the application for a licence, the further particulars to be included therein and the manner of payment of licence fee under section 6;

(c) the form and conditions of the licence, and the manner of payment of licence fee under section 7;

(d) the manner of publishing a notice under sub-section (4) of section 19 for inviting claims to property pledged with a money-lender;

(e) the form of cash book and ledger and the manner in which they should be maintained and other particulars to be prescribed under section 24;

(f) the form of the statement of accounts and pass book to be furnished or delivered and the date before which it is to be furnished or delivered under sub-section (1), the fee to be paid under sub-section (2) and the sum of expenses to be paid under sub-section (3), of section 25 ;

(g) the form of application under sub-section (1) of section 36 ;

(h) any other matter which is or may be prescribed under this Act or any matter for which there is no provision or insufficient provision in this Act and for which provision is, in the opinion of the Government, necessary for giving effect to the provisions of this Act.

(3) The rules made under this section shall, subject to the condition of previous publication, be published in the Official Gazette.

(4) All rules made under this section shall be laid as soon as may be after they are made before the State Legislature, and shall be subject to such modifications as the Legislature may make during the session in which they are so laid, or the session immediately following.

51. *Repeal and Saving.* — (1) The Goa, Daman and Diu Money-Lenders Act, 1977 (Act 7 of 1977), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Act shall be deemed to have been done or taken under the corresponding provisions of this Act.

Statement of Objects and Reasons

So far in the State of Goa Money Lending Business was regulated under the Goa, Daman and Diu Money Lenders' Act, 1977. It may not be incorrect to presume that this Act was not much effective as it is observed that some of the private money lenders are not registered, so also they charge exorbitant rates of interest. Government has, therefore, decided to enact a new Act in place of the existing the Goa, Daman and Diu Money Lenders Act, 1977. The instant Bill is aimed at regulating the money lending activity by the Government with a view to make available loans to the needy persons by private money lenders at a fair rate of interest. At the same time the Bill provides that needy persons are not exploited by making such Acts of exploitation as cognisable offence punishable with imprisonment and fine. It prevent evasion of tax by money lenders on account of their activity. Bill provides for appointment of Registrar and Assistant Registrar with certain powers as are vested in a Civil Court under the Code of Civil Procedure,

1908 to enable them to deal effectively with the activities of money lenders. This Bill seeks to remove defects in the existing Act and provides for proper machinery for its effective implementation.

Financial Memorandum

The implementation of the proposed Act contemplates appointment of Officers such as Registrar, Asstt. Registrar and others. The nature of workload for implementation of the Act may not be substantial. The initial administrative set up may be composed by conferment of ex-officio status of Registrar preferably as additional duties, an officers like the Registrar of Co-operative Societies, Asstt. Registrar of Coop. Societies, Mamlatdar. However, some requisite staffing nucleus may have to be provided for such authorities. The estimated annual expenditure required to be thus incurred would be of the order of Rs. 2.00 lakhs.

Memorandum Regarding Delegated Legislation

Clause 50 of the Bill empowers the Government to make Rules for carrying out the purposes of the Act and issue directions to the officers or generally from time to time for carrying out the purposes of this Act.

Also, various provisions of the Bill empower the Government to frame Rules for the purpose of specifying the date before which the money-lender has to make an application for grant of licence, form of such application, etc.

These delegations are of normal character.

Porvorim-Goa
17th July, 2001.

MANOHAR PARRIKAR,
Chief Minister

Assembly Hall
Porvorim-Goa.
17th July, 2001.

R. KOTHANDARAMAN,
Secretary (Legislature)

Governor's Recommendation under Article 207 of the Constitution

In pursuance of Article 207 of the Constitution of India, I, Mohammed Fazal, the Governor of Goa, hereby recommend to the Legislative Assembly of Goa, the introduction and consideration of the Goa Money-Lenders' Bill, 2001.

LA/E-9/2518/2001

The following Bill which was introduced in the Legislative Assembly of the State of Goa on 20-7-2001 is hereby published for general information in pursuance of the provisions of Rule-138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The Goa Legislative Diploma No. 1984 dated 14-4-1960 (Amendment) Bill, 2001

(Bill No. 67 of 2001)

A

BILL

further to amend the Legislative Diploma No. 1984 dated 14-4-1960, in its application in the State of Goa.

BE it enacted by the Legislative Assembly of Goa in the Fifty-second year of the Republic of India, as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Goa Legislative Diploma No. 1984 dated 14-4-1960 (Amendment) Act, 2001.

(2) It shall come into force at once.

2. *Amendment of Article 16.*— In Article 16 of the Legislative Diploma No. 1984 dated 14-4-1960, in Clause (3), for the expression "for a period of three years" the expression "during the pleasure of the Government ", shall be substituted.

Statement of Objects and Reasons

Article 16 of the Legislative Diploma No. 1984 dated 14-4-1960 provides for the composition of a Council, which consist of the Chairman and four other members, out of which three will be non-official members. Clause (3) of said Article 16 provides that the term of the non-official members shall be three years. In case, the Council is not functioning properly or if the Government desires to remove the non-official members of the Council for any reason, there is no provision in the said Legislative Diploma for the Government to act and re-constitute the Council of Provedoria as and when required by it. It is, therefore, proposed to amend said clause (3) of Article 16 of the said

Legislative Diploma so as to provide that the non-official members of the Council shall be on the Council during the pleasure of the Government.

This Bill seeks to achieve the above object.

Panaji-Goa
17th July, 2001.

DR. SURESH AMONKAR,
Minister for Provedoria

Financial Memorandum

No financial implications are involved in this Bill.

Memorandum Regarding Delegated Legislation

No delegated legislation is involved in this Bill.

Assembly Hall,
Porvorim, Goa
18th July, 2001.

R. KOTHANDARAMAN,
Secretary (Legislature)

ANNEXURE

Extracts of the Goa Legislative Diploma No. 1984 dated 14-4-1960, Enactment No. 1984

Article 16

1. The Conselho da Provedoria (hereinafter referred to as the 'Council') shall consist of Chairman and four other members, including the Provedor, who shall be the Member-Secretary of the Council.

2. The Chairman and other three members of the Council shall be appointed by the Government by notification in the Official Gazette:

Provided that the Chairman shall be an Officer of the Government.

3. Every non-official member of the Council shall hold office for a period of three years and shall be paid such allowances from the funds of the Provedoria as may be fixed by the Government.

Assembly Hall,
Panaji-Goa
18th July, 2001.

R. KOTHANDARAMAN,
Secretary (Legislature)

LA/E-9/2518/2001

The following Bill which was introduced in the Legislative Assembly of the State of Goa on 20-7-2001 is hereby published for general information in pursuance of the provisions of Rule-138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The Goa Indian System of Medicine
and Homoeopathy Council Bill, 2001

(Bill No. 69 of 2001)

A

BILL

to provide for the constitution of the Goa State council of Indian system of medicines and homoeopathy, registration of practitioners in said medicines, maintenance of Register of practitioners the practice/ qualifications of such medicines and with a view to encourage the study, spread of such system of medicine and to make certain other provisions relating to the practitioners generally in the State of Goa.

BE it hereby enacted by the Legislative Assembly of Goa in the fifty-second year of the Republic of India as follows :—

Chapter — I

PRELIMINARY

1. *Short title, extent and commencement.* — (1) This Act may be called the Goa Indian System of Medicine and Homoeopathy Council Act, 2001.

(2) It extends to the whole of the State of Goa.

(3) It shall come into force on such date as the Government may, by notification in the Official Gazette appoint.

2. *Definitions.*— In this Act, unless the context otherwise requires,—

(a) "Board" means the Goa Board of Indian system of medicines and Homoeopathy established under section 3, of this Act;

(b) "Chairman" means chairman of the Board;

(c) "Director of Health Services" means the Director of Directorate of Health Services, Goa.

(d) "Government" means Govt. of Goa.

(e) "Homoeopathy" means Homoeopathic System of Medicines and includes the use of biochemic remedies and Indian System of Medicines means System of Medicines commonly known as "Asthang, Ayurvedic or Siddha or Unani or Unani Tibb".

(f) "Inspector" means the Inspector appointed under section 30;

(g) "member" means member of the Board;

(h) "practitioner" means a person who practices the Indian system of medicines and homoeopathy as a principle occupation;

(i) "prescribed" means prescribed by the rules made under this Act;

(j) "register" means a register of practitioners prepared and maintained under this Act;

(k) "registered practitioner" means a practitioner whose name is for the time being entered on the register;

(l) "registrar" means Registrar appointed under section 21 of this Act;

(m) "regulations" means regulation made under section 47 of this Act;

(n) "rules" means rules made under this Act;

(o) "Schedule" means Schedule to this Act;

Chapter II

3. *Establishment of Board.*— (1) The Government may, as soon as may be, by notification in the Official Gazette, establish a Board to be called the Goa Board of Indian System of medicines and homoeopathy. The Board shall be a body corporate and shall have perpetual succession and a common seal and may by the said name sue and be sued.

(2) The Board shall consist of nine members and shall be constituted in the following manner, namely:—

(a) six members who have put in at least 5 years practice in Indian System of medicine and homoeopathy, elected by the registered practitioners from amongst themselves.

(b) one practitioner nominated by the Government.

(c) one member from the public having interest in homoeopathy nominated by the Government; and

(d) the Director or a Deputy Director of the Directorate of Health Services of Goa, nominated by the Government.

(e) the election of members referred to in clause (a) of sub-section (2) shall be held at such time and at such place and in such manner as may be prescribed.

4. *Chairman and Vice Chairman.*— The Government shall nominate any member of the Board as Chairman of the Board and the Vice-Chairman of the Board shall be elected by the members from amongst themselves.

5. *Term of Office.*— The term of office of a member shall be two years from the date of election or nomination as a member. The Government, may however, from time to time, by notification in the Official Gazette, extend this term by such period not exceeding two years in the aggregate, as may be specified in the notification.

6. *All members of the Board to be constituted first shall be nominated by the Government.*— Notwithstanding anything contained in this Chapter, all members of the Board to be constituted first shall be nominated by the Government and shall hold office for a period of three years from its constitution.

7. *Resignation.*— The Vice-Chairman or any member may at any time resign his office by a letter addressed to the Chairman of the Board. The Chairman of the Board, wishing to resign, may forward his written resignation to the Government.

8. *Filling of casual vacancies of Chairman, Vice-Chairman or a member.*— If the Chairman or Vice-Chairman or a member of the Board dies or resigns or due to any cause, whatsoever, ceases to be Chairman or Vice-Chairman or a member, the vacancy so created shall be filled by fresh nomination or election, as the case may be, within such period as may be prescribed and the person so nominated or elected shall hold office for the remainder of the term of the office of the Chairman, Vice-Chairman or member, as the case may be, in whose place he has been so nominated or elected.

9. *Removal of member.*— (1) If any member, during the period for which he has been nominated or elected, —

(a) absents himself without sufficient cause from three consecutive ordinary meetings of the Board; or

(b) becomes subject to any of the disqualifications mentioned in section 10 of this Act; or

(c) being a legal practitioner, appears in any suit or proceedings, civil or criminal, against the Board; or

(d) obtains any employment under the Board or has without the previous sanction of the Government, acquired, directly or indirectly, by himself or by a partner, any share or interest in any contract with, by or on behalf of the Board; or

(e) has so flagrantly abused in any manner his position as such member as to render his continuance detrimental to the interest of the Board; the Government may remove him from membership:

Provided that when the Government proposes to take action under the foregoing provisions of this section, an opportunity of being heard shall be given to the member concerned, and when such action is taken, the reason therefore shall be placed on record.

(2) The decision of the Government under this section shall not be questioned in any Court of law.

10. *Disqualification of Membership.*— Any person,—

(a) who is an undischarged insolvent; or

(b) who has been adjudged to be of unsound mind by a competent authority; or

(c) who has been convicted of an offence involving moral turpitude which, in the opinion of the Government, renders him unfit to be member of the Board; or

(d) whose name has been removed from the register under section 26 of this Act; shall not be eligible for being elected or nominated or for continuing to be a member of the Board.

11. *Duties of Chairman.*— Unless provided otherwise by this Act or prevented by reasonable cause, it shall be the duty of the chairman,

(i) to convene and preside over all meetings of the Board;

(ii) otherwise to control in accordance with any regulations to be made in this behalf, the transaction of business at all meetings of the Board;

(iii) to perform such other duties as are required or imposed on him by or under this Act, or rules framed thereunder.

12. *Delegation by Chairman of his powers and duties to the Vice-Chairman.*— (1) The Chairman may empower, by general or special order, the Vice-Chairman to exercise under his control any one or more of his powers, duties or functions.

(2) An order by the Chairman under sub-section (1) may specify any condition and impose any restriction in respect of the exercise of any such power or, the performance of any duty or the discharge of any function.

(3) In particular, such order may specify the condition that any order by a Vice-Chairman in the exercise of a power conferred on him by sub-section (1), shall be liable to rescission or revision by the Chairman upon appeal to the Chairman within a specified time.

13. *Duties of Vice-Chairman.*— The Vice-Chairman shall,—

(a) in the absence of the Chairman from a meeting of the Board and unless prevented by reasonable cause, preside, regulate the conduct of business of the meeting of the Board and maintain and enforce order at the meeting.

(b) during the vacancy in the office of Chairman or the incapacity or temporary absence of the Chairman, perform any other duty or power of the Chairman;

(c) at any time perform any duty and exercise, when occasion arises, any power delegated to him by the Chairman under section 12 of this Act.

14. *Nomination of members in default of election.*— If the registered practitioners fail by

such date as may be prescribed, to elect the requisite number of members of the Board or to fill up any vacancy on the Board, the Government may fill up such vacancies or vacancy by nomination of persons or person qualified to be elected.

15. *Notification of election, nominations of vacancies.*— Every nomination or election of any vacancy in the office of the Chairman, the Vice-Chairman, or a member of the Board shall be notified in the Official Gazette.

16. *Payment of allowance to members.*— Members of the Board may be paid out of the funds of the Board such travelling and daily allowances, not exceeding those payable to grade 1 Government servants, as may be prescribed.

Chapter III

CONDUCT OF BUSINESS

17. *Meeting of the Board.*— The Board shall meet at such time and place and every meeting of the Board shall be summoned in such manner as may be provided by regulations:

Provided that until such regulations are made, it shall be lawful for the Chairman to summon a meeting of the Board at such time and place as he may deem expedient by circulating notice to each member.

18. *Procedure at meetings of Board.*— (1) Every meeting shall be presided over by the Chairman or in his absence by the Vice-Chairman.

(2) If at a meeting neither the Chairman nor the Vice-Chairman is present, the members present shall elect one of the members present to be the Chairman of the meeting and such Chairman shall perform all the duties and may exercise all the powers of the Chairman of the Board when presiding at such meeting.

(3) All questions at a meeting of the Board shall be decided by majority of votes of the members present and voting.

(4) In case of an equality of votes, the Chairman of the meeting shall have a second or casting vote.

(5) In order to constitute a meeting of the Board, four members present shall form its quorum.

19. *The minute book and resolutions.*— (1) The names of the members present and the proceed-

ings held and resolutions passed at a meeting of the Board shall be entered in a book to be called the minute book.

(2) The minutes shall be read out at the meeting, or the next ensuing meeting, and after being passed as correct by the members (or a majority of them) present at the meeting, shall be certified as passed under the signature of the Chairman of the meeting at which it is passed.

(3) A copy of the proceedings of every meeting of the Board shall, within 15 days from the date of the meeting, be forwarded to the Government or any other authority appointed by it in this behalf.

20. *Validity of proceedings.*— (1) Vacancy in the Board shall not vitiate any act or proceedings of the Board.

2) Disqualification of member or defect in the election or nomination of member of the Board and/or of the Chairman or Vice-Chairman shall vitiate any act or proceeding of the Board in which such person has taken part.

Chapter IV

STAFF AND REGISTRATION

21. *Registrar, other officers and servants of the Board.*— (1) The Board shall, with the previous approval of the Government, appoint a Registrar who shall be the Secretary of the Board. The Registrar shall receive such salary and allowances and shall be governed by such conditions of service as may be prescribed. The Chairman may, from time to time, grant him leave and may temporarily appoint a person to take his place. Any person duly appointed to act as Registrar shall be deemed to be the Registrar for all purposes of this Act.

(2) Any order of the Board appointing, punishing or removing the Registrar from his office shall be subject to the approval of the Government.

(3) The Board may appoint such other officers and servants as may be necessary for carrying out the purposes of this Act:

Provided that the number, designation, pay and allowances of such officers and servants shall be fixed under the regulations framed by the Board:

Provided further that the powers of the Board to punish, dismiss, discharge and remove any

officer or servant of the Board, shall be subject to rules framed by the Government and regulations framed by the Board.

(4) All questions of recruitment, promotion, leave, provident fund and other conditions of service relating to staff of the Board shall be governed by rules, framed by the Government.

(5) The Registrar or any other officer or servant appointed under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code 1860 (Central Act 45 of 1860).

22. *Order by Board for maintenance of register.*— (1) The Board shall, as soon as may be after the commencement of this Act, and from time to time as occasion may require, make orders regulating the maintenance of a register.

(2) The register shall be kept in such form as may be prescribed.

23. *Duties of Registrar.*— (1) Subject to the provisions of this Act or subject to any general or special orders of the Board, it shall be the duty of the Registrar to keep the register and discharge such other functions as are required to be discharged by him under this Act or by the rules made thereunder.

(2) The Registrar shall, so far as practicable, keep the register correct and up-to-date and may from time to time, enter therein any material alteration in the addresses or qualifications of the practitioners. He shall also remove from the register the name of the registered practitioners who die or who under the provisions of this Act cease to be entitled to remain on the register.

(3) The Government may, direct that no alterations in the entries in respect of additional qualifications shall be made unless such fee as may be prescribed is paid.

(4) For the purpose of this section, the Registrar may write to any registered practitioner at the address which is entered in the register to inquire whether he has ceased to practice or has changed his residence and if no answer is received to the said letter within three months, the Registrar may issue a registered reminder, and in case no reply is received to the reminder within one month from the date of its issue, he may remove the name of the said practitioner from the register:

Provided that the Board may, if it thinks fit, direct that the name of the practitioner be re-entered in the register.

24. *Persons entitled to registration.*— (1) Every person possessing the qualification mentioned in the Schedule shall, subject to the provisions contained in this Act, and on payment of such fees as may be prescribed in this behalf, be entitled to have his name entered in the register subject to such conditions as the Board may prescribe:

Provided that an application for entry in the register made by a person, whose case is not clearly governed by the provisions of this Act or by the rules and regulations made thereunder, shall be referred to Board for such decision as it may deem fit.

(2) Any person aggrieved by the decision of the Registrar regarding the registration of any person or the making or removal of any entry in the register may, within ninety days of such registration or entry, appeal to the Board.

(3) Such appeal shall be heard and decided by the Board in the prescribed manner.

(4) The Board may, on its own motion or on the application of any person and after calling for an explanation from the person concerned and considering the same, cancel or alter any entry in the register, if, in the opinion of the Board such entry was fraudulently or incorrectly made or obtained.

25. *Renewal fees.* — (1) The Government may, by notification in the Official Gazette, direct that for the retention of a name in the register after the name is first entered in the register, to pay to the Board such renewal fee and for such period as may be prescribed and where such direction has been made, such renewal fee shall be due and be paid in the manner prescribed.

(2) Where a renewal fee is not paid before the due date, the Registrar shall remove the name of the defaulter from the register:

Provided that a name so removed may be restored to the register on payment of such fees and in such manner as may be prescribed.

26. *Removal of names from the register.*— The Board may direct that the name of any practitioner who has been convicted of a cognizable offence as defined in the Code of Criminal Procedure, 1973

(Central Act 2 of 1974), and the practitioner discloses such defect of moral character which is in the opinion of the Board sufficient to make him unfit to practice his profession, or who, after due enquiry has been found guilty of conduct which is in the opinion of the Board infamous in any professional respect, shall be removed from the register. The Board may, on sufficient cause being shown, also direct that the name of the practitioner so removed shall be re-entered in the register.

27. *Power of Board to call for information from medical institution.*— The Board shall have power to call upon the governing body or authorities, of a medical corporation, examining body or other institution recognised or desirous of being recognised by the Government,—

(a) to furnish such reports, returns or other information as the Board may require to enable it to judge the efficiency of the instructions given therein in Indian system of medicines and homoeopathy; and

(b) to provide facilities to enable a member of the Board deputed by the Board in this behalf to be present at the examinations held by such medical corporation, examining body or institution.

28. *Publication of names entered in the register.* — (1) The Registrar shall, in every year and from time to time as occasions may require, on or before a date to be fixed in this behalf by the Board, cause to be published in the Official Gazette, in such manner as the Board may prescribe, a full or supplementary list of names of practitioners for the time being entered in the register and setting forth,—

(a) all names entered in the register arranged in alphabetical order;

(b) the registered address and appointment held by or actual employment of each person whose name is entered in the register; and

(c) the registered titles, degrees and qualifications of each such person and the date on which each such title or degree was granted or qualification acquired:

Provided that the Registrar shall, from time to time, get published in the Official Gazette the names of such practitioners whose names have been duly removed from register under any of the provisions of this Act.

(2) In any proceeding it shall be presumed that every person whose name is entered in the register is a registered practitioner; and that any person whose name is not so entered is not a registered practitioner.

Explanation:— In the case of person whose name has been entered in the register after the last publication of the list, a certified copy signed by Registrar, of the entry of the name of such person in the register, shall be a evidence that such person is registered under this Act. Such certificate shall be issued free of charge.

29. *Examinations.*— (1) The Board may by regulations lay down the qualifications required for admission to a course of training in Indian system of medicines and homoeopathy system of medicine, the duration of such training, the qualifying examinations and may establish the necessary institutions to give such training and may hold such examinations and confer diplomas.

(2) It shall be the duty of the Board to secure the maintenance of an adequate standard of proficiency for the practice of the Indian system of medicines and homoeopathy system of medicine and for the purpose of securing such a standard, the Board shall have authority to call the governing body or the authorities of any institutions giving instructions in such system:—

(a) to furnish such particulars as the Board may require of any course of study or of any examination held by such institution with reference to the grant of any qualifications, and

(b) to permit inspectors appointed by the Board to inspect the institution.

(3) the Board may form a standing syllabus, and examination committee consisting of persons from amongst its members for conducting the business mentioned in sub-sections (1) and (2).

30. *Appointment of Inspector.*— (1) The Board may appoint such number of inspectors as it may deem fit on such salary as the Board may, with the previous sanction of the Government, determine.

(2) Such Inspector shall in accordance with any general or special directions of the Board, given from time to time, inspect homoeopathic dispensaries, hospitals and the institutions

affiliated to Board and shall report to the Board in regard to the course of study pursued and training imparted at every such institutions and on any other matter with regard to which the Board may require him to report.

31. *Grant and withdrawal of recognition.*— The Board may grant recognition to any institution imparting instructions to students for preparing them for the qualifying examination and may at any time withdraw such recognition if in the opinion of the Board the institution is unable to impart instructions of the required standard.

Chapter V

FUNCTIONS AND FINANCE OF THE BOARD

32. *Powers of the Board.*— The Board shall have the power:—

(1) to recognize Indian system of medicines and homoeopathic educational or instructional institutions for purpose of affiliation;

(2) to prescribe courses of study and curricular for general instruction or special or refresher courses in institutions affiliated to the Board, in such branches of the medical science of Indian System of Medicine and Homoeopathy as the Board may think fit;

(3) to hold examinations and to grant and confer degrees and diplomas to and on persons who shall have pursued a course of study in the educational institutions affiliated to the Board;

(4) to institute exhibitions and award medals and also to grant scholarships to those who obtain high position at the Board's examinations or are poor and deserving with sanction of the Government; to grant to students scholarships for special study, in research and manufacture of Indian system of medicines and homoeopathic medicine, whether in India or abroad and to endow Chairs of Indian System of Medicine and Homoeopathy in institutions affiliated to Board;

(5) to receive from students such fees as may be prescribed for admission to the Board's examination;

(6) to exercise general supervision over the residential and disciplinary arrangements made by the educational institutions affiliated to the Board and to make arrangements for

promoting the health, general welfare of their students;

(7) to appoint examiners and publish the results of the examinations held by it.

(8) to suspend or withdraw the recognition of any institution which is not conducted in accordance with the conditions prescribed by this Act, or rules framed thereunder:

Provided that no such action shall be taken without affording the management of such an institution an opportunity of making such representation as it may deem fit.

(9) to establish or aid research institutions and to make arrangement for post-graduate study in the Indian system of medicines and homoeopathy and to encourage scientific manufacture of Indian system of medicines and homoeopathy medicines in the State of Goa;

(10) to publish Indian system of medicines and homoeopathy journals; and

(11) to do such acts, not inconsistent with the provisions of this Act, as may be necessary for the furtherance of the objects of this Act.

33. *Budget.*— (1) The Board shall prepare and lay before it at a meeting to be held in every year before such date, as may be fixed by rules in this behalf, a complete account of the actual and abstracted receipts and expenditure for the year ending on the 31st day of March next following such date together with a budget estimates of the income and expenditure of the Board for the year commencing on the first day of April next following.

(2) The Board shall at such meeting decide upon the appropriations and the ways and means contained in the budget estimate and submit the budget for approval to the Government or to such authority as the Government may, by order direct.

(3) Subject to the like provisions, the Board may suggest variation or alterations in the budget, as circumstances may render desirable.

34. *Revised budget.* — As soon as may be after the first day of October, the revised budget for the year shall be framed and such revised budget shall, so far as may be, be subject to all the

provisions applicable to a budget made under section 33.

35. *Indian system of medicines and homoeopathy Fund.*— There shall be established Indian system of medicines and homoeopathy Fund and there shall be placed to the credit thereof,—

(a) grants and loans received from the Government;

(b) all fees received by the Board,

(c) contributions received from any local authority or any Indian system of medicines and homoeopathy medical association; and

(d) all sums received by or on behalf of the Board from sources other than those mentioned in the foregoing clauses.

36. *Custody and investment of Indian system of medicines and homoeopathy Fund.*— The Indian system of medicines and Homoeopathy Fund shall be kept in the State Bank of India or with the previous sanction of the Government, in any other bank.

Chapter VI

PRIVILEGES OF REGISTERED PRACTITIONERS

37. *Practitioner Certificate.* — Notwithstanding anything contained in any law for the time being in force,—

(1) The expression legally qualified Indian system of medicines and homoeopathy practitioner or duly qualified Indian system of medicines and homoeopathy practitioner or any word importing a person, recognised by law as Indian system of medicines and homoeopathy practitioner or member of Indian system of medicines and homoeopathy profession, shall in all Acts, extended to the State of Goa or in all Acts of Legislature in their application to the State of Goa, in so far as such Acts relate to any of the matters specified in list II or list III in the Seventh Schedule of the Constitution of India, be deemed to include a registered practitioner.

(2) A certificate required under any Act or rule having the force of law from any Indian system of medicines and homoeopathy practitioner shall be valid, if such certificate has been granted by a registered practitioner.

(3) A registered practitioner shall be eligible to hold any appointment as a physician or other medical officer in any dispensary, hospital supported by or receiving a grant from the Government or any local authority and treating patients according to Indian system of medicines and homoeopathy or any public establishment, body or institution dealing with homoeopathic system of Medicine.

(4) Unless the Board otherwise directs a registered practitioner shall be entitled to,—

(a) sign or authenticate a birth or death certificate required by any law or rule to be signed or authenticated by a duly qualified Indian system of medicines and homoeopathic practitioner;

(b) sign or authenticate a medical or physical fitness certificate required by any law or rule to be signed or authenticated by a duly qualified Indian system of medicines and homoeopathic practitioner;

(c) give evidence at any inquest or in any court of law as an expert under section 45 of the Indian Evidence Act, 1872 (Central Act 1 of 1872), on any matter relating Indian system of medicines and homoeopathy practitioner.

38. *Exemption from serving on inquests.*— Notwithstanding anything in any other law for the time being in force, every registered practitioner shall be exempt, if he so desires, from serving on any inquest or as a juror or assessor under the Code of Criminal Procedure, 1972 (Central Act 2 of 1974).

Chapter VII

OFFENCES

39. *Registered practitioner not to practice any other system of medicine.*— (1) A registered practitioner shall not be entitled to practice any system of medicine other than Indian system of medicines and homoeopathy, unless he is duly qualified and entitled under any law for time being in force, to practice that system.

(2) No registered practitioner shall prescribe allopathic drugs and medicines or prepare mixtures of allopathic drugs with Indian system of medicines and homoeopathic drugs for the use of patients

unless he is legally qualified in that system of medicines and registered in the Directorate of Health Services, under the law in force.

40. *Conferring, granting or issuing diploma, license, etc., by unauthorized person or institution.*— (1) No person other than an association or institution recognised or authorized under this Act shall confer, grant or issue any degree, diploma, license, certificate or other document stating to practice the Indian system of medicines and homoeopathic system of medicine or hold itself out as entitled to confer, grant or issue such documents or certificates.

(2) (a) No person, other than a registered practitioner under this Act, shall practice Indian system of medicines and homoeopathy system of Medicine.

(b) All the practitioners of Indian system of medicines and homoeopathy registered in the Directorate of Health Services, under Dip-L-146 8 in force in the State of Goa shall be considered as registered practitioner and their names shall be transferred to the register maintained by the Board.

(c) No practitioner shall practice in the State of Goa on the ground that he is registered in any other State or Union Territory.

(d) No practitioner shall be registered on the ground that he is holding registration certificate from any State or Union Territory unless he possesses a recognised medical qualification conferred by any College/University recognised by the Board.

(e) All the qualifications, degrees or diplomas conferred by Colleges/Institutions included in the II and III Schedule attached to Indian Medicine Central Council Act, 1970 (Central Act 48 of 1970) and the Homoeopathy Central Council Act, 1973 (Central Act 59 of 1973), shall be considered as recognized qualification.

(f) All practitioners who do not possess recognised qualification and were or are practicing Indian system of medicines and homoeopathy in any other State or Union Territory and desire to establish their practice in the State of Goa shall have to obtain degree/diploma on passing the examination specified under sub-section (3) of Section 32.

(3) Whoever contravenes the provisions of this section shall be punishable, for first such offence, with imprisonment which may extend to one year or with fine which may extend to Rs. 1,000 or with both, and for such subsequent offence with double the fine and imprisonment specified for first offence.

(4) Whoever contravenes the provisions of section 39 of this Act, shall on conviction be punished for first such offence with imprisonment which may extend to one year or with fine which may extend to Rs. 1,000 or with both, and for such subsequent offence with double the fine and imprisonment specified for first offence.

41. *False assumption of certificate or diploma to be an offence.* — Whoever falsely assumes or uses any title or description or any addition to his name implying that he holds a degree, diploma, license or certificate conferred, granted or issued by an association or institution recognised or authorized under this Act or that he is qualified to practice the Indian system of medicines and homoeopathy System of medicines under the provisions of this Act, shall be punishable with imprisonment which may extend to six months or with fine which may extend to Rs. 500 or with both, for the first such offence, and to imprisonment which may extend to one year or with fine which may extend to Rs. 1000 or with both, for every subsequent such offences.

Chapter VIII

MISCELLANEOUS

42. *Appeals to Government from decision of the Board.* — (1) An appeal shall lie to the Government from every decision of the Board under this Act, except a decision made by the Board as an appellate authority.

(2) Every appeal under sub-section (1) shall be preferred within three months of the date of communication of such order.

43. *Bar to suit and other legal proceedings.* — (1) No suit or other legal proceeding shall lie against the Government in respect of an act done in the exercise of the powers conferred by this Act.

(2) No suit, prosecution or other legal proceedings shall lie against the Board or any member or any officer or servant of the Board or any person acting under the direction of the Board or of the Chairman or of any officer or servant of the Board in respect

of anything which is done in good faith or intended to be done in pursuance of this Act or of any rules or regulations made thereunder.

44. *Control of Board by Government.* — (1) The Government may give such direction to the Board as it may deem fit and the Board shall comply with all such directions.

(2) If at any time, it shall appear to the Government that the Board has failed to exercise or has exceeded or abused power conferred upon it by or under this Act or has failed to perform a duty imposed upon it by or under this Act, the Government may, if it considers such failure, excess, or abuse to be of a serious character, notify the particulars thereof to the Board; and if the Board fails to remedy such default, excess or abuse within such time as may be fixed by the Government in this behalf, the Government may dissolve the Board and cause all or any of the powers and duties of the Board to be exercised and performed by such agency and for such period as it may think fit:

Provided that it shall take steps within six months of such dissolution of the Board, constitute a new Board under the provisions of this Act.

45. *Court competent to try offences under this Act and take cognizance of offences.* — (1) No court other than the court of a magistrate of the first class shall take cognizance of, or try an offence under this Act.

(2) No court shall take cognizance of any offence under this Act except on a complaint in writing of an officer empowered by rules made in this behalf.

46. *Delegation of powers.* — The Government or the Board may delegate such of its powers and to such authority as the Government or the Board, as the case may be, deem necessary.

47. *Making of Regulations.* — (1) Subject to the provisions of this Act and the rules framed by the Government thereunder, the Board may with the previous approval of the Government frame regulations for regulating the following matters, namely:—

(i) (a) Conditions on which a person may be registered under section 24 or an institution may be affiliated or recognised under section 29;

(b) the admission of students to the educational or instructional institutions affiliated to the Board;

(c) the conditions under which students shall be admitted to the degree or diploma or certificate course and to the examination of the Board and shall be eligible for degrees, diplomas and certificates;

(d) the conditions of residence of the student in the educational or instructional institutions affiliated to the Board and the levying of fees for such residence;

(e) the number, qualifications, emoluments of teachers of the educational or instructional institutions affiliated to the Board;

(f) the fees to be charged for courses of study in such institutions and for admission to the examinations, of degrees, diplomas and certificates of the Board;

(g) the conditions and mode of appointment and duties of examiners and the conduct of examinations;

Provided that in framing regulations, the Board shall take into consideration the financial and other conditions of the institutions generally:

(ii) (a) the time and place at which the meeting shall be held;

(b) the issue of notices convening such meetings;

(c) the conduct of business there at;

(d) the salary, allowances and other conditions of service of officers and servants of the Board other than the Registrar;

(e) all other matters which may be necessary for the purposes of carrying out the objects of the Act.

(2) All such regulations shall be published in the Official Gazette.

(3) The Government may, by notification in the Official Gazette, cancel or modify any regulation.

48. *Rules.*— (1) The Government may, from time to time, make rules consistent with this Act to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, the Government may make rules for any of the following matters:—

(a) the time and place at which and the manner in which election shall be held under subsection (3) of section 3;

(b) regulation of election under this Act;

(c) the conduct of meetings and the maintenance of correct minutes of meetings of the Board;

(d) the manner in which vacancies shall be filled under section 8;

(e) the privileges, salary and allowances and other conditions of service of the Registrar;

(f) the account to be kept by the Board, the manner in which accounts shall be audited and published and the power of auditors in respect of disallowance and surcharge;

(g) the date before which a meeting shall be held for the sanction of the budget;

(h) the method and form to be adopted in the preparation of budget;

(i) the returns, statements and reports to be submitted by the Board;

(j) the form of the register of practitioners to be maintained under this Act and the classifications of practitioners into two or more classes according to their qualifications;

(k) fees chargeable under this Act and their application;

(l) the manner in which appeals against the decision of the Registrar shall be heard by the Board under section 24;

(m) allowances payable to members of the Board and its Chairman;

(n) the maintenance of patient register by practitioner in the prescribed form;

(o) the furtherance of any objects of the Board as a teaching or examining body;

(p) delegation of powers by the Government and by the Board; and

(q) the furtherance of any other objects of the Act.

(1) All such rules shall be published in the Official Gazette.

Chapter IX

REPEAL AND TRANSITIONAL PROVISIONS

49. *Repeal and Savings.*— (1) Subject to the provisions of this Chapter, on the appointed day, the Decreto No. 34417 dated 21/2/1945 (Art. 130) shall stand repealed.

(2) Unless the Government otherwise directs, any rule or regulations made under the Decreto repealed by Sub-Section (1) shall, from the appointed day, cease to be in force.

(3) The registers kept or maintained or deemed to be kept or maintained under the Decreto so repealed which are in force immediately before the appointed day, shall be deemed to be the registers prepared under the act, until the register prepared under section 22 comes into force.

(4) Anything done or any action taken (including any appointment or application made, notification, order or direction issued or fee levied or certificate or notice given) under the Decreto so repealed and subsisting immediately before the appointed day shall, in so far as it is not inconsistent with the provisions of this Act, and unless the Government otherwise directs, be deemed to have been made, issued, levied or given under the relevant provisions of this Act, and be in force accordingly, unless and until superseded by anything done by any action taken under this Act.

SCHEDULE I

1. All the Institutions included in the Homoeopathy Central Council Act, 1973.

2. All the Institutions included in the Indian Medicine Central Council Act, 1970 (Central Act 48 of 1970).

3. Indian system of medicines and homoeopathy doctors registered under Directorate of Health Services under article of Portaria 1468.

4. Indian system of medicines and homoeopathy doctors passing the final examination held by the Goa Board of Indian system of medicines and homoeopathy.

Financial Memoranda

There are no additional liabilities involved to implement provisions of the proposed Bill.

Statement of Object and Reasons

To constitute the State Council of Indian Systems of Medicines and Homoeopathy and for the maintenance of the State Register in these system and to regulate the practice/qualification and with a view to encourage the study and spread of such system in the State of Goa. Presently there is no law in existence. Therefore, it is felt necessary that a suitable law should be introduced. The present Bill is fulfilling the above requirement.

Panaji,
18th July, 2001.

DR. SURESH AMONKAR,
Minister for Health

Assembly Hall,
Porvorim,
18th July, 2001.

R. KOTHANDARAMAN,
Secretary to the Legislative
Assembly of Goa.

LA/E-9/2518/2001

The following Bill which was introduced in the Legislative Assembly of the State of Goa on 20-7-2001 is hereby published for general information in pursuance of the provisions of Rule-138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The Goa Tourist Places (Protection and Maintenance) Bill, 2001

(Bill No. 68 of 2001)

A

BILL

to protect and maintain the tourist places from deterioration and erosion and preserve their tourism potential.

BE it enacted by the Legislative Assembly of the State of Goa in the Fifty-second Year of the Republic of India, as follows:—

1. *Short title, extent and commencement.*— (1) This Act may be called the Goa Tourist Places (Protection and Maintenance) Act, 2001.

(2) It extends to the whole of the State of Goa.

(3) It shall come into force at once.

2. *Definitions.*— In this Act, unless the context otherwise requires,—

(a) "competent authority" means the authority appointed under section 4 of this Act;

(b) "Government" means the Government of Goa;

(c) "nuisance" includes any act of commission or omission or carrying on of any activity, process, operation including the operation of or plying of vessels or boats or timber, raft or any other floating object in any part of the sea, river, or port which causes or is likely to cause injury, danger, annoyance to the sense of sight, smell or hearing or which is or may be dangerous to life or injurious to health or property and includes oil spillage;

(d) "tourist place" means any place, site or location declared by the Government as tourist place under section 3 of this Act and shall include any land, monument, lake, river, beach or portion thereof;

(e) "tourism potentiality" means a tourist place where a person or group of persons including pilgrims are likely to visit.

3. *Declaration of tourist places.*— On and from the date of coming into force of this Act, the Government may, by notification in the Official Gazette, declare any place, monument, site, location to be a tourist place for the purposes of this Act, including any river, riverbed, beach, water spring, lake, water course or land, etc.

4. *Appointment of competent authority.*— Government may, by notification in the Official Gazette, appoint any gazetted officer of the Government to be a Competent Authority either for the whole of the State of Goa or for each district of the State of Goa.

5. *Prevention of nuisance.*— Notwithstanding anything contained in any other law for the time being in force, or any instrument, contract or usage or any order, judgement or decree of any court, on and from the date of coming into force of this Act,—

(a) no person, company, association or firm or any other body shall cause any nuisance or carry out any activity, process, operation, etc., including the operation of or plying vessels, boats, etc. or omit to prevent or remove the nuisance, which damages or deteriorates or is likely to damage or deteriorate or is capable of being damaged or deteriorated or has damaged or deteriorated the tourism potentiality of any tourist place, declared as such, under section 3 of this Act.

(b) the competent authority, either on its own motion or upon a complaint received or upon reference made to it, may, by an order in writing and without giving any prior notice, prohibit any nuisance being caused or prevent any such activity, process, operation as referred to in clause (a) above being carried out, if in the opinion of the said competent authority, it has damaged or deteriorated or is likely to damage or deteriorate the tourism potentiality of any tourist place, and pass such interim orders as it deems fit to give effect to the objects of this Act.

6. *Notice for removing the nuisance.*— If, in the opinion of the competent authority, a nuisance is having impact on the tourism potentiality, it shall issue a notice to the owner, occupier, lessee, charterer or any person enjoying right of usage or has control of the object which has contributed to the nuisance and the owner, occupier, lessee, charterer or any person enjoying right of usage or has control of the object, as the case may be, shall within a period of 15 days from the date of receipt of such notice, abate or remove the same, and unless the same is removed or abated by the said person within the said period of 15 days or such further time as may be extended by the competent authority, but not exceeding 3 months, the competent authority shall cause removal of such nuisance.

7. *Object of nuisance shall stand forfeited and vest in the Government.*— On the failure of the owner, occupier, lessee, charterer or any person against whom notice of removal of nuisance is issued, to comply with the order of removal of such nuisance within the time fixed by the competent authority, the material thing or object of nuisance shall stand forfeited and vest in the Government, except that when such material thing or object is sold in public auction, any sum over and above the cost of removal of nuisance, shall be payable to its owner. In case the cost of removal exceeds the sale price in auction the balance shall be recovered from the concerned owner, as provided in Section 8.

8. *Expenses and costs for removing the nuisance.*— The expenses and costs incurred, if any, the Competent Authority in removing or abating such nuisance, shall be recovered from the person who has caused such nuisance or from the owner/occupier of the object which has contributed to the nuisance, in the same manner as arrears of land revenue.

9. *Dealing with the property of nuisance.*— Any property, thing, material or object, which is a nuisance under this Act, may be disposed off or dealt with by the Government, in the manner it deems fit.

10. *Offences and penalties.*— (1) Whoever contravenes any of the provisions of this Act or fails to comply with any order or directions given under the Act or obstructs any person acting under the orders or directions of the Competent Authority from exercising his powers and performing his functions under this Act, shall be punishable with imprisonment for a term which shall not be less than 3 months but which may extend to 3 years or with fine which may extend to Rs. 5,000/- or with both.

(2) Any offence committed under this Act shall be cognizable and non-bailable.

11. *Appeal.*— (1) An appeal shall lie against the order passed by the competent authority under this Act to the Government, whose decision on appeal shall be final.

(2) No court shall have jurisdiction to take cognizance of any suit, appeal or proceeding, against any order which can be dealt with under this Act, passed or likely to be passed under this Act.

12. *Protection for acts done under this Act.*— No suit, prosecution or other legal proceedings shall lie in any court, against the Government, Competent Authority or any of its officers or persons duly appointed or authorized by it in respect of anything which is done in good faith or is intended to be done in pursuance of or under this Act or the rules made thereunder.

13. *Certain officers to act in aid of Competent Authority.*— All officers of the police force, home guards, person in-charge of Police Station shall act in aid of the orders of Competent Authority.

14. *Power to make rules.*— The Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

15. *Power to remove difficulties.*— If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order, do anything not inconsistent with the provisions of this Act which appear to it to be necessary or expedient for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiration of three years from the commencement of this Act.

Statement of Objects and Reasons

The tourism industry is not only one of the major sources of revenue for the State of Goa but also caters to the livelihood of about more than 30% of the population in the State. Further, the Goan beaches and also some other important places in the State of Goa are renowned and have very high tourism potential and acclaimed not only at national level, but also have international reputation, fame and recognition.

It is, therefore, of utmost importance to maintain all such places of tourist importance and protect them from being made prone to deterioration of their tourist potential.

This Bill seeks to achieve the above objects.

Financial Memorandum

No financial implications are involved in the present Bill.

Clause 14 of the Bill empowers the Government to frame rules as specified therein.

These delegates are of normal character.

Memorandum Regarding Delegated Legislation

Clause 3 of the Bill empowers the Government to notify the tourist places and Clause 4 of the bill empowers the Government to appoint Competent Authority for the purposes as specified therein.

Porvorim, Goa
19th July, 2001.

FILIP NERI RODRIGUES,
Minister for Tourism

Assembly Hall
Porvorim, Goa
19th July, 2001.

R. KOTHANDARAMAN,
Secretary (Legislature)